

R. Neil Walter proposes the following substitute bill:

Real Estate Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Neil Walter

Senate Sponsor:

LONG TITLE

General Description:

This bill amends provisions relating to real estate.

Highlighted Provisions:

This bill:

- provides that an action related to property management is not a consumer transaction under the Utah Consumer Sales Practices Act;
- requires that the Division of Consumer Protection transfer an action or complaint related to property management to the Division of Real Estate (division);
- defines terms;
- extends the implementation date for the property manager license to January 1, 2027;
- provides that the division shall make rules for the licensing of a dual broker;
- provides that a dual broker may engage in property management without obtaining a property management license;
- establishes the scope of a property manager license;
- requires an individual who holds a property manager license who is employed by a person that is required to affiliate with a principal broker to also affiliate with the principal broker;
- provides the conditions under which a property manager is not required to affiliate with a principal broker;
- amends provisions relating to investigating a violation of Title 61, Chapter 2f, Real Estate Licensing and Practices Act;
- provides requirements for the records that a brokerage and a property manager that meets certain requirements is required to maintain;
- amends the circumstances under which a property manager is not required to maintain property management client funds in a trust account; and

29 ▸ makes technical changes.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **13-11-3**, as last amended by Laws of Utah 2025, Chapter 442

37 **13-11-7**, as last amended by Laws of Utah 2025, Chapter 442

38 **61-2f-102**, as last amended by Laws of Utah 2025, First Special Session, Chapter 9

39 **61-2f-103**, as last amended by Laws of Utah 2025, First Special Session, Chapter 4

40 **61-2f-201**, as last amended by Laws of Utah 2025, First Special Session, Chapter 4

41 **61-2f-202**, as last amended by Laws of Utah 2025, Chapter 248

42 **61-2f-202.5**, as enacted by Laws of Utah 2025, Chapter 248

43 **61-2f-203**, as last amended by Laws of Utah 2025, First Special Session, Chapter 4

44 **61-2f-204**, as last amended by Laws of Utah 2025, Chapter 248

45 **61-2f-302**, as last amended by Laws of Utah 2010, Chapter 184 and renumbered and
46 amended by Laws of Utah 2010, Chapter 379

47 **61-2f-309**, as enacted by Laws of Utah 2025, Chapter 263

48 **61-2f-402**, as last amended by Laws of Utah 2025, Chapter 263

49 **61-2f-411**, as last amended by Laws of Utah 2025, First Special Session, Chapter 4

50 REPEALS:

51 **61-2f-101**, as enacted by Laws of Utah 2010, Chapter 379



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

54 Section 1. Section **13-11-3** is amended to read:

55 **13-11-3 . Definitions.**

56 As used in this chapter:

57 (1) "Charitable solicitation" means any request directly or indirectly for money, credit,
58 property, financial assistance, or any other thing of value on the plea or representation
59 that it will be used for a charitable purpose. A charitable solicitation may be made in
60 any manner, including:

61 (a) any oral or written request, including a telephone request;

62 (b) the distribution, circulation, or posting of any handbill, written advertisement, or

63 publication; or
64 (c) the sale of, offer or attempt to sell, or request of donations for any book, card,
65 chance, coupon, device, magazine, membership, merchandise, subscription, ticket,
66 flower, flag, button, sticker, ribbon, token, trinket, tag, souvenir, candy, or any other
67 article in connection with which any appeal is made for any charitable purpose, or
68 where the name of any charitable organization or movement is used or referred to as
69 an inducement or reason for making any purchase donation, or where, in connection
70 with any sale or donation, any statement is made that the whole or any part of the
71 proceeds of any sale or donation will go to or be donated to any charitable purpose.
72 A charitable solicitation is considered complete when made, whether or not the
73 organization or person making the solicitation receives any contribution or makes any
74 sale.

75 (2)(a) "Consumer transaction" means a sale, lease, assignment, award by chance, or
76 other written or oral transfer or disposition of goods, services, or other property, both
77 tangible and intangible (except securities and insurance) to, or apparently to, a person
78 for:

79 (i) primarily personal, family, or household purposes; or

80 (ii) purposes that relate to a business opportunity that requires:

81 (A) expenditure of money or property by the person described in Subsection (2)(a);
82 and

83 (B) the person described in Subsection (2)(a) to perform personal services on a
84 continuing basis and in which the person described in Subsection (2)(a) has not
85 been previously engaged.

86 (b) "Consumer transaction" includes:

87 (i) any of the following with respect to a transfer or disposition described in
88 Subsection (2)(a):

89 (A) an offer;

90 (B) a solicitation;

91 (C) an agreement; or

92 (D) performance of an agreement; or

93 (ii) a charitable solicitation.

94 (c) "Consumer transaction" does not include a person:

95 (i) engaging in property management;

96 (ii) advertising property management services; or

97 (iii) offering to engage in property management.

98 (3) "Division" means the Division of Consumer Protection.

99 (4) "Final judgment" means a judgment, including any supporting opinion, that determines
100 the rights of the parties and concerning which appellate remedies have been exhausted
101 or the time for appeal has expired.

102 (5) "Property management" means the same as that term is defined in Section 61-2f-102.

103 [~~5~~] (6) "Supplier" means a seller, lessor, assignor, offeror, broker, or other person who
104 regularly solicits, engages in, or enforces consumer transactions, whether or not the
105 person deals directly with the consumer.

106 [~~6~~] (7) "Vulnerable adult" means the same as that term is defined in Section 26B-6-201.

107 Section 2. Section **13-11-7** is amended to read:

108 **13-11-7 . Duties of division -- Civil penalty for violation of restraining or**
109 **injunctive orders.**

110 (1) The division shall:

111 (a) enforce this chapter throughout the state;

112 (b) cooperate with state and local officials, officials of other states, and officials of the
113 federal government in the administration of comparable statutes;

114 (c) inform consumers and suppliers on a continuing basis of the provisions of this
115 chapter and of acts or practices that violate this chapter;

116 (d) receive and act on complaints; and

117 (e) maintain a public file of final judgments rendered under this chapter that have been
118 either reported officially or made available for public dissemination under Subsection
119 (1)(c), final consent judgments, and to the extent the division considers appropriate,
120 assurances of voluntary compliance.

121 (2)(a) On motion of the division, or on the court's own motion, the court may impose a
122 civil penalty of not more than \$5,000 for each day a temporary restraining order,
123 preliminary injunction, or permanent injunction issued under this chapter is violated,
124 if the supplier received notice of the restraining or injunctive order.

125 (b) Civil penalties imposed under this section shall be paid [~~to~~] into the General Fund.

126 (3) For an action commenced or complaint received by the division under this chapter
127 before May 6, 2026, if the action or complaint involves a person engaging in property
128 management, advertising property management services, or offering to engage in
129 property management services, the division shall transfer the complaint or action to the
130 Division of Real Estate for the Division of Real Estate to investigate and enforce in

131 accordance with Section 61-2f-402.

132 Section 3. Section **61-2f-102** is amended to read:

133 **61-2f-102 . Definitions.**

134 As used in this chapter:

- 135 (1) "Admonition" means a public discipline that declares the conduct of a person as
136 improper and does not identify the person.
- 137 (2)(a) "Advertisement" means a notice or announcement meant to:
- 138 (i) promote the availability of real estate, an option on real estate, or a business
139 opportunity for sale, exchange, auction, or lease;
- 140 (ii) offer specific types of brokerage services; or
- 141 (iii) specifically solicit the public to contact that licensee for more information.
- 142 (b) "Advertisement" does not include a social media post that generally identifies the
143 person as being engaged in the profession of real estate if the social media post does
144 not:
- 145 (i) promote the availability of real estate, an option on real estate, or a business
146 opportunity for sale, exchange, auction, or lease;
- 147 (ii) offer specific types of brokerage services; or
- 148 (iii) specifically solicit the public to contact that licensee for more information.
- 149 (3) "Advertising" or "advertise" means placing or directing the placement of an
150 advertisement.
- 151 (4) "Associate broker" means an individual who is:
- 152 (a) employed or engaged as an independent contractor by or on behalf of a principal
153 broker to perform an act described in Subsection [~~(29)~~] (30) for valuable
154 consideration; and
- 155 (b) licensed or is required to be licensed under this chapter as an associate broker.
- 156 (5) "Branch broker" means an associate broker who manages a principal broker's branch
157 office under the supervision of the principal broker.
- 158 (6) "Branch office" means a principal broker's real estate brokerage office that is not the
159 principal broker's main office.
- 160 (7) "Brokerage" means an entity registered or required to be registered with the division [
161 pursuant to] in accordance with Section 61-2f-206.
- 162 (8) "Brokerage name" means:
- 163 (a) the name of the brokerage as shown on division records;
- 164 (b) the name of a branch office of the brokerage; or

- 165 (c) a ~~[DBA]~~ D.B.A. of the brokerage.
- 166 (9) "Business day" means a day other than:
- 167 (a) a Saturday;
- 168 (b) a Sunday; or
- 169 (c) a federal or state holiday.
- 170 (10) "Business opportunity" means the sale, lease, or exchange of any business that
- 171 includes an interest in real estate.
- 172 (11) "Commission" means the Real Estate Commission established under this chapter.
- 173 (12) "Common interest association" means the same as that term is defined in Section
- 174 57-1-46.
- 175 (13) "Concurrence" means the entities given a concurring role ~~[must]~~ shall jointly agree for
- 176 action to be taken.
- 177 (14)(a) "Condominium hotel" means one or more condominium units that are operated
- 178 as a hotel.
- 179 (b) "Condominium hotel" does not mean a hotel consisting of condominium units, all of
- 180 which are owned by a single entity.
- 181 (15) "Condominium unit" means the same as that term is defined in Section 57-8-3.
- 182 (16) "Director" means the director of the Division of Real Estate.
- 183 (17) "Division" means the Division of Real Estate.
- 184 (18) ~~["Doing business as" or "DBA"]~~ "D.B.A." means a name that is registered with the
- 185 Division of Corporations and Commercial Code that allows a business to operate under
- 186 a name different from the business's legal name.
- 187 (19) "DOD civilian" means the same as that term is defined in Section 53H-11-202.
- 188 (20) "Dual broker" means a principal broker who functions as the principal property
- 189 manager of a property management company that is a separate entity from a brokerage.
- 190 ~~[(20)]~~ (21) "Entity" means:
- 191 (a) a corporation;
- 192 (b) a partnership;
- 193 (c) a limited liability company;
- 194 (d) a company;
- 195 (e) an association;
- 196 (f) a joint venture;
- 197 (g) a business trust;
- 198 (h) a trust; or

- 199 (i) any organization similar to an entity described in Subsections [~~(20)(a)~~] (21)(a)
200 through (h).
- 201 [~~(21)~~] (22) "Executive director" means the director of the Department of Commerce.
- 202 [~~(22)~~] (23) "Factory built housing" means a manufactured home or mobile home.
- 203 [~~(23)~~] (24) "Foreclosure rescue" means, for compensation or with the expectation of
204 receiving valuable consideration:
- 205 (a) an act that:
- 206 (i) the person represents will assist a borrower in preventing a foreclosure; and
207 (ii) relates to a transaction involving the transfer of title to residential real property; or
- 208 (b) as an employee or agent of another person:
- 209 (i) a solicitation or an offer that the other person will engage in an act described in
210 Subsection [~~(23)(a)~~] (24)(a); or
- 211 (ii) negotiation of the terms in relationship to an act described in Subsection [~~(23)(a)~~]
212 (24)(a).
- 213 [~~(24)~~] (25) "Loan modification assistance" means, for compensation or with the expectation
214 of receiving valuable consideration:
- 215 (a) an act, or an offer to act, on behalf of a person to:
- 216 (i) obtain a loan term of a residential mortgage loan that is different from an existing
217 loan term including:
- 218 (A) an increase or decrease in an interest rate;
219 (B) a change to the type of interest rate;
220 (C) an increase or decrease in the principal amount of the residential mortgage
221 loan;
222 (D) a change in the number of required period payments;
223 (E) an addition of collateral;
224 (F) a change to, or addition of, a prepayment penalty;
225 (G) an addition of a cosigner; or
226 (H) a change in persons obligated under the existing residential mortgage loan; or
- 227 (ii) a substitute of a new residential mortgage loan for an existing residential
228 mortgage loan; or
- 229 (b) as an employee or agent of another person:
- 230 (i) a solicitation or an offer that the other person will engage in an act described in
231 Subsection [~~(24)(a)~~] (25)(a); or
- 232 (ii) negotiation of the terms in relationship to an act described in Subsection [~~(24)(a)~~]

- 233 (25)(a).
- 234 ~~[(25)]~~ (26) "Main office" means the address that a principal broker designates with the
- 235 division as the principal broker's primary brokerage office.
- 236 ~~[(26)]~~ (27) "Manufactured home" means the same as that term is defined in Section
- 237 15A-1-302.
- 238 ~~[(27)]~~ (28) "Mobile home" means the same as that term is defined in Section 15A-1-302.
- 239 ~~[(28)]~~ (29) "Person" means an individual or entity.
- 240 ~~[(29)]~~ (30) "Principal broker" means an individual who:
- 241 (a) is licensed or required to be licensed as a principal broker under this chapter; and
- 242 (b)(i) sells or lists for sale real estate, including real estate being sold as part of a
- 243 foreclosure rescue, a business opportunity, or, unless licensed with the Division of
- 244 Professional Licensing as a dealer under Title 58, Chapter 56, Building Inspector
- 245 and Factory Built Housing Licensing Act, factory built housing, with the
- 246 expectation of receiving valuable consideration;
- 247 (ii) buys, exchanges, or auctions real estate, an option on real estate, a business
- 248 opportunity, or, unless licensed with the Division of Professional Licensing as a
- 249 dealer under Title 58, Chapter 56, Building Inspector and Factory Built Housing
- 250 Licensing Act, factory built housing, with the expectation of receiving valuable
- 251 consideration;
- 252 (iii) advertises, offers, attempts, or otherwise holds the individual out to be engaged
- 253 in the business described in Subsection ~~[(29)(a)]~~ (30)(b)(i) or (b)(ii);
- 254 (iv) is employed by or on behalf of the owner of real estate or by a prospective
- 255 purchaser of real estate and performs an act described in Subsection ~~[(29)(a)]~~
- 256 (30)(b)(i), whether the individual's compensation is at a stated salary, a
- 257 commission basis, upon a salary and commission basis, or otherwise;
- 258 (v) with the expectation of receiving valuable consideration, manages property
- 259 owned by another person;
- 260 (vi) advertises or otherwise holds the individual out to be engaged in property
- 261 management;
- 262 (vii) with the expectation of receiving valuable consideration, assists or directs in the
- 263 procurement of prospects for or the negotiation of a transaction listed in
- 264 Subsections ~~[(29)(a)]~~ (30)(b)(i) and ~~[(v)]~~ (b)(v);
- 265 (viii) except for a mortgage lender, title insurance producer, or an employee of a
- 266 mortgage lender or title insurance producer, assists or directs in the closing of a

267 real estate transaction with the expectation of receiving valuable consideration;
268 (ix) engages in foreclosure rescue; or
269 (x) advertises, offers, attempts, or otherwise holds the person out as being engaged in
270 foreclosure rescue.

271 (31) "Principal property manager" means an individual who:

272 (a) is the primary contact for a property management company; and

273 (b) holds a valid, active license under this chapter as:

274 (i) a property manager; or

275 (ii) a principal broker.

276 [~~30~~] (32)(a) "Property management" means the management of real estate owned by
277 another person, with the expectation of receiving valuable consideration, or
278 advertising or otherwise claiming to be engaged in the management of real estate
279 owned by another person, by:

280 (i) advertising for, arranging, negotiating, offering, or otherwise attempting or
281 participating in a transaction calculated to secure the rental or leasing of real estate;

282 (ii) collecting, agreeing, offering, or otherwise attempting to collect rent for the real
283 estate; or

284 (iii) signing a lease agreement or an addendum with a tenant.

285 (b) "Property management" does not include:

286 (i) hotel or motel management;

287 (ii) rental of tourist accommodations, including hotels, motels, tourist homes,
288 condominiums, condominium hotels, mobile home park accommodations,
289 campgrounds, or similar public accommodations for a period of less than 30
290 consecutive days, and the management activities associated with these rentals; or

291 (iii) the leasing or management of surface or subsurface minerals or oil and gas
292 interests, if the leasing or management is separate from a sale or lease of the
293 surface estate.

294 (33) "Property management company" means an entity:

295 (a) that engages solely in property management;

296 (b) that is required to register with the division under this chapter; and

297 (c) is supervised by:

298 (i) a dual broker;

299 (ii) a principal broker; or

300 (iii) a principal property manager.

- 301 ~~[(31)]~~ (34) "Property manager" means an individual who:
- 302 (a) is licensed or required to be licensed as a property manager under this chapter; and
- 303 (b)(i) engages in property management; or
- 304 (ii) advertises or otherwise holds the individual out to be engaged in property
- 305 management.
- 306 ~~[(32)]~~ (35) "Real estate" includes leaseholds and business opportunities involving real
- 307 property.
- 308 ~~[(33)]~~ (36)(a) "Regular salaried employee" means an individual:
- 309 (i) who performs a service for wages or other remuneration; and
- 310 (ii) whose employer withholds federal employment taxes under a contract of hire,
- 311 written or oral, express or implied.
- 312 (b) "Regular salaried employee" does not include an individual who performs services
- 313 on a project-by-project basis or on a commission basis.
- 314 ~~[(34)]~~ (37) "Reinstatement" means the restoration of a license that has expired or has been
- 315 suspended.
- 316 ~~[(35)]~~ (38) "Reissuance" means the process by which an individual may obtain a license
- 317 following revocation of the license.
- 318 ~~[(36)]~~ (39) "Renewal" means the extension of a license for an additional licensing period on
- 319 or before the ~~[date]~~ day on which the license expires.
- 320 ~~[(37)]~~ (40) "Reprimand" means a public discipline that declares the conduct of a person as
- 321 improper and includes the name of the person.
- 322 (41) "Residential rental unit" means the same as that term is defined in Section 57-22-2.
- 323 ~~[(38)]~~ (42) "Sales agent" means an individual who is:
- 324 (a) affiliated with a principal broker, either as an independent contractor or an employee
- 325 as provided in Section 61-2f-303, to perform for valuable consideration an act
- 326 described in Subsection ~~[(29)]~~ (30); and
- 327 (b) licensed, or required to be licensed, under this chapter as a sales agent.
- 328 ~~[(39)]~~ (43) "Transaction" means, whether complete or incomplete:
- 329 (a) a purchase of real estate;
- 330 (b) a sale of real estate;
- 331 (c) an exchange of real estate;
- 332 (d) a lease of real estate;
- 333 (e) an auction of real estate;
- 334 (f) management of real estate;

- 335 (g) an option on real estate; or
- 336 (h) a business opportunity.
- 337 ~~[(40)]~~ (44) "Vulnerable adult" means the same as that term is defined in Section 26B-6-201.
- 338 Section 4. Section **61-2f-103** is amended to read:
- 339 **61-2f-103 . Real Estate Commission.**
- 340 (1) There is created within the division a Real Estate Commission.
- 341 (2) The commission shall:
- 342 (a) subject to concurrence by the division and in accordance with Title 63G, Chapter 3,
- 343 Utah Administrative Rulemaking Act, make rules for the administration of this
- 344 chapter that are ~~[not inconsistent]~~ consistent with this chapter, including:
- 345 (i) licensing of:
- 346 (A) a principal broker;
- 347 (B) an associate broker;
- 348 (C) a sales agent;~~and]~~
- 349 (D) a dual broker; and
- 350 ~~[(D)]~~ (E) on or after ~~[July 1, 2026]~~ January 1, 2027, a property manager;
- 351 (ii) registration of:
- 352 (A) an entity;
- 353 (B) ~~[an assumed name-]~~ a D.B.A. under which a person conducts business;
- 354 (C) a branch office; and
- 355 (D) a property management company;
- 356 (iii) prelicensing and postlicensing education curricula;
- 357 (iv) examination procedures;
- 358 (v) the certification and conduct of:
- 359 (A) a real estate school;
- 360 (B) a course provider; or
- 361 (C) an instructor;
- 362 (vi) proper handling of money ~~[received by a licensee]~~ that a licensee receives under
- 363 this chapter;
- 364 (vii) brokerage office procedures and recordkeeping requirements;
- 365 (viii) property management;
- 366 (ix) standards of conduct for a licensee under this chapter;
- 367 (x) if the commission, with the concurrence of the division, determines necessary, a
- 368 rule as provided in Subsection 61-2f-306(3) regarding a legal form;

- 369 (xi) the qualification and designation of an acting principal broker in the event a
370 principal broker dies, is incapacitated, or is unable to perform the duties of a
371 principal broker, as described in Section 61-2f-202; and
- 372 (xii) giving or paying an inducement gift or a closing gift to a buyer or seller in a real
373 property transaction;
- 374 (b) establish, with the concurrence of the division, a fee provided for in this chapter,
375 except a fee imposed under Part 5, Real Estate Education, Research, and Recovery
376 Fund Act;
- 377 (c) conduct an administrative hearing not delegated by the commission to an
378 administrative law judge or the division relating to the:
- 379 (i) licensing of an applicant;
- 380 (ii) conduct of a licensee;
- 381 (iii) the certification or conduct of a real estate school, course provider, or instructor
382 regulated under this chapter; or
- 383 (iv) violation of this chapter by any person;
- 384 (d) with the concurrence of the director, impose a sanction as provided in Section
385 61-2f-404;
- 386 (e) advise the director on the administration and enforcement of a matter affecting the
387 division and the real estate sales and property management industries;
- 388 (f) advise the director on matters affecting the division budget;
- 389 (g) advise and assist the director in conducting real estate seminars; and
- 390 (h) perform other duties as provided by this chapter.
- 391 (3)(a) Except as provided in Subsection (3)(b), a state entity may not, without the
392 concurrence of the commission, make a rule that changes the rights, duties, or
393 obligations of buyers, sellers, or persons licensed under this chapter in relation to a
394 real estate transaction between private parties.
- 395 (b) Subsection (3)(a) does not apply to a rule made:
- 396 (i) under Title 31A, Insurance Code, or Title 7, Financial Institutions Act; or
- 397 (ii) by the Department of Commerce or any division or other rulemaking body within
398 the Department of Commerce.
- 399 (4)(a) The commission consists of five members [~~appointed by~~] that the governor
400 appoints and [~~approved by~~] the Senate approves in accordance with Title 63G,
401 Chapter 24, Part 2, Vacancies.
- 402 (b) Four of the commission members shall:

- 403 (i) have at least five years' experience in the real estate business; and
404 (ii) hold an active principal broker, associate broker, or sales agent license.
- 405 (c) One commission member shall be a member of the general public.
- 406 (d) The governor may not appoint a commission member described in Subsection (4)(b)
407 who, at the time of appointment, resides in the same county in the state as another
408 commission member.
- 409 (e) At least one commission member described in Subsection (4)(b) shall at the time of
410 an appointment reside in a county that is not a county of the first or second class.
- 411 (5)(a) Except as required by Subsection (5)(b), as terms of current commission members
412 expire, the governor shall appoint each new member or reappointed member to a
413 four-year term ending June 30.
- 414 (b) The governor shall, at the time of appointment or reappointment, adjust the length of
415 terms to ensure that the terms of commission members are staggered so that
416 approximately half of the commission is appointed every two years.
- 417 (c) Upon the expiration of the term of a member of the commission, the member of the
418 commission shall continue to hold office until a successor is appointed and qualified.
- 419 (d) A commission member may not serve more than two consecutive terms.
- 420 (e) Members of the commission shall annually select one member to serve as chair.
- 421 (6) When a vacancy occurs in the membership for any reason, the governor, with the advice
422 and consent of the Senate, shall appoint a replacement for the unexpired term.
- 423 (7) A member may not receive compensation or benefits for the member's service, but may
424 receive per diem and travel expenses in accordance with:
- 425 (a) Section 63A-3-106;
426 (b) Section 63A-3-107; and
427 (c) rules ~~[made by]~~the Division of Finance ~~[pursuant to]~~ makes in accordance with
428 Sections 63A-3-106 and 63A-3-107.
- 429 (8)(a) The commission shall meet at least monthly.
- 430 (b) The director may call additional meetings:
431 (i) at the director's discretion;
432 (ii) upon the request of the chair; or
433 (iii) upon the written request of three or more commission members.
- 434 (9) Three members of the commission constitute a quorum for the transaction of business.
- 435 (10) A member of the commission shall comply with the conflict of interest provisions
436 described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

437 Section 5. Section **61-2f-201** is amended to read:

438 **61-2f-201 . License required -- Scope of license.**

- 439 (1) Unless a person is licensed under this chapter, it is unlawful for the person to do the
440 following with respect to real estate located in this state:
- 441 (a) engage in the business of a principal broker, associate broker, or sales agent;
 - 442 (b) act in the capacity of a principal broker, associate broker, or sales agent;
 - 443 (c) advertise or assume to act as a principal broker, associate broker, or a sales agent; or
 - 444 (d) on or after January 1, 2027, engage in property management.
- 445 (2) Except as provided in Section 61-2f-202, an individual is required to be licensed as a
446 principal broker, associate broker, or a sales agent if the individual performs, offers to
447 perform, or attempts to perform one act for valuable consideration of:
- 448 (a) buying, selling, or exchanging real estate for another person; or
 - 449 (b) offering for another person to buy, sell, or exchange real estate.
- 450 (3) Except as provided in Section 61-2f-202.5, unless an individual is licensed as a
451 principal broker, associate broker, sales agent, dual broker, or property manager, an
452 individual may not, for consideration:
- 453 (a) engage in property management; or
 - 454 (b) offer to engage in property management on behalf of another person.
- 455 (4) An individual licensed as a property manager under this chapter:
- 456 (a) may do the following for one or more residential rental units:
 - 457 (i) engage in property management;
 - 458 (ii) offer to engage in property management on behalf of another person; or
 - 459 (iii) advertise or otherwise hold the individual out to be engaged in property
460 management; and
 - 461 (b) may not engage in an activity listed in Subsection (4)(a) in relation to real estate
462 other than a residential rental unit.

463 Section 6. Section **61-2f-202** is amended to read:

464 **61-2f-202 . Exempt persons and transactions.**

- 465 (1) As used in this section, "owner" does not include:
- 466 (a) a person that holds an option to purchase real property;
 - 467 (b) a mortgagee;
 - 468 (c) a beneficiary under a deed of trust;
 - 469 (d) a trustee under a deed of trust; or
 - 470 (e) a person that owns or holds a claim that encumbers any real property or an

471 improvement to the real property.

472 [~~(1)~~] (2)(a) Except as provided in Subsection [~~(1)(b)~~] (2)(b), a license under this chapter is
473 not required for:

474 (i) a person who as owner or lessor performs an act described in Subsection [
475 ~~61-2f-102(29)~~] 61-2f-102(30) with reference to real estate owned or leased by that
476 person;

477 (ii) a regular salaried employee of the owner or lessor of real estate who, with
478 reference to nonresidential real estate owned or leased by the employer, performs
479 an act described in Subsection [~~61-2f-102(29)(b)(ii)~~] 61-2f-102(30)(b)(ii) or (iii);

480 (iii) a regular salaried employee of the owner of real estate who performs property
481 management services with reference to real estate owned by the employer, except
482 that the employee may only manage real estate for one employer;

483 (iv) an individual who performs property management services for the apartments at
484 which that individual resides in exchange for free or reduced rent on that
485 individual's apartment;

486 (v) a regular salaried employee of a common interest association who manages real
487 estate subject to the declaration covenants, conditions, and restrictions that
488 established the common interest association;

489 (vi) a regular salaried employee of a licensed property management company or real
490 estate brokerage who performs support services, as prescribed by rule, for the
491 property management company or real estate brokerage; or

492 (vii) in the event a principal broker dies, is incapacitated, or is unable to perform the
493 duties of a principal broker, an individual qualified and designated as the
494 commission determines by rule made in accordance with Title 63G, Chapter 3,
495 Utah Administrative Rulemaking Act, with the concurrence of the division, as an
496 acting principal broker:

497 (A) in relation to each transaction pending on the day on which the principal
498 broker dies, becomes incapacitated, or becomes unable to perform the duties of
499 a principal broker, including the distribution of compensation for each
500 transaction; and

501 (B) until the day on which each transaction described in Subsection [~~(1)(a)(vii)(A)~~]
502 (2)(a)(vii)(A) is completed.

503 (b) Subsection [~~(1)(a)~~] (2)(a) does not exempt from licensing:

504 (i) an employee engaged in the sale of real estate regulated under:

- 505 (A) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act; or
 506 (B) Title 57, Chapter 19, Timeshare and Camp Resort Act;
 507 (ii) an employee engaged in the sale of cooperative interests regulated under Title 57,
 508 Chapter 23, Real Estate Cooperative Marketing Act; or
 509 (iii) an individual whose interest as an owner or lessor is obtained by that individual
 510 or transferred to that individual for the purpose of evading the application of this
 511 chapter, and not for another legitimate business reason.

512 [~~2~~] (3) A license under this chapter is not required for:

- 513 (a) an isolated transaction or service by an individual holding an unsolicited, duly
 514 executed power of attorney from a property owner;
 515 (b) subject to Subsection 61-2f-401(5), services rendered by an attorney admitted to
 516 practice law in this state in performing the attorney's duties as an attorney;
 517 (c) a receiver, trustee in bankruptcy, administrator, executor, or an individual acting
 518 under order of a court;
 519 (d) a trustee or employee of a trustee under a deed of trust or a will;
 520 (e) a public utility, officer of a public utility, or regular salaried employee of a public
 521 utility, unless performance of an act described in Subsection [~~61-2f-102(29)~~]
 522 61-2f-102(30) is in connection with the sale, purchase, lease, or other disposition of
 523 real estate or investment in real estate unrelated to the principal business activity of
 524 that public utility;
 525 (f) a regular salaried employee or authorized agent working under the oversight of the
 526 Department of Transportation when performing an act on behalf of the Department of
 527 Transportation in connection with one or more of the following:
 528 (i) the acquisition of real estate [~~pursuant to~~] in accordance with Section 72-5-103;
 529 (ii) the disposal of real estate [~~pursuant to~~] in accordance with Section 72-5-111;
 530 (iii) services that constitute property management; or
 531 (iv) the leasing of real estate; and
 532 (g) a regular salaried employee of a county, city, or town when performing an act on
 533 behalf of the county, city, or town:
 534 (i) in accordance with:
 535 (A) if a regular salaried employee of a city or town:
 536 (I) Title 10, Utah Municipal Code; or
 537 (II) Title 11, Cities, Counties, and Local Taxing Units; and
 538 (B) if a regular salaried employee of a county:

539 (I) Title 11, Cities, Counties, and Local Taxing Units; and

540 (II) Title 17, Counties; and

541 (ii) in connection with one or more of the following:

542 (A) the acquisition of real estate, including by eminent domain;

543 (B) the disposal of real estate;

544 (C) services that constitute property management; or

545 (D) the leasing of real estate.

546 ~~[(3)]~~ (4) A license under this chapter is not required for an individual registered to act as a
547 broker-dealer, agent, or investment adviser under the Utah and federal securities laws in
548 the sale or the offer for sale of real estate if:

549 (a)(i) the real estate is a necessary element of a "security" as that term is defined by
550 the Securities Act of 1933 and the Securities Exchange Act of 1934; and

551 (ii) the security is registered for sale in accordance with:

552 (A) the Securities Act of 1933; or

553 (B) Title 61, Chapter 1, Utah Uniform Securities Act; or

554 (b)(i) ~~[it]~~ the sale or offer for sale of real estate is a transaction in a security for which
555 a Form D, described in 17 C.F.R. Sec. 239.500, has been filed with the Securities
556 and Exchange Commission ~~[pursuant to]~~ in accordance with Regulation D, Rule
557 506, 17 C.F.R. Sec. 230.506; and

558 (ii) the selling agent and the purchaser are not residents of this state.

559 ~~[(4)]~~ (5) Except as otherwise provided by statute or rule, the following individuals may
560 engage in the practice of an occupation or profession regulated by this chapter, subject
561 to the stated circumstances and limitations, without being licensed under this chapter:

562 (a) an individual licensed under the laws of this state, other than under this chapter, to
563 practice or engage in an occupation or profession, while engaged in the lawful,
564 professional, and competent practice of that occupation or profession;

565 (b) an individual serving in the armed forces of the United States, the United States
566 Public Health Service, the United States Department of Veterans Affairs, or any other
567 federal agency while engaged in activities regulated under this title as a part of
568 employment with that federal agency if the individual holds a valid license to practice
569 the regulated occupation or profession issued by any other state or jurisdiction
570 recognized by the department; and

571 (c) the spouse of an individual serving in the armed forces of the United States or the
572 spouse of a DOD civilian while the individual or DOD civilian is stationed within

573 this state, if:

- 574 (i) the spouse holds a valid license to practice the regulated occupation or profession
 575 issued by any other state or jurisdiction recognized by the department; and
 576 (ii) the license is current and the spouse is in good standing in the state or jurisdiction
 577 of licensure.

578 [~~(5) As used in this section, "owner" does not include:~~]

579 [~~(a) a person who holds an option to purchase real property;~~]

580 [~~(b) a mortgagee;~~]

581 [~~(c) a beneficiary under a deed of trust;~~]

582 [~~(d) a trustee under a deed of trust; or~~]

583 [~~(e) a person who owns or holds a claim that encumbers any real property or an
 584 improvement to the real property.~~]

- 585 (6) The commission, with the concurrence of the division, may provide, by rule made in
 586 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 587 circumstances under which a person or transaction qualifies for an exemption that is
 588 described in this section.

589 Section 7. Section **61-2f-202.5** is amended to read:

590 **61-2f-202.5 . Exempt individuals and transactions involving property
 591 management.**

592 A license under this chapter is not required for:

- 593 (1) an individual who, as an owner or lessor, performs an act described in Subsection [
 594 ~~61-2f-102(20)~~] 61-2f-102(31)(a) in connection to real estate owned or leased by that
 595 individual;
- 596 (2) an individual who is part of a property owner's immediate family, if the individual
 597 performs an act described in Subsection [~~61-2f-102(20)~~] 61-2f-102(31)(a) in connection
 598 to real estate [~~owned by~~] that the property owner owns;
- 599 (3) an unlicensed or remote assistant of a property manager;
- 600 (4) an individual who exclusively performs the following tasks:
- 601 (a) maintenance and repairs on real property; or
- 602 (b) bookkeeping and accounting; or
- 603 (5) a regional manager or a corporate official of a rental agency who does not engage in an
 604 act described in Subsection [~~61-2f-102(20)~~] 61-2f-102(31)(a).

605 Section 8. Section **61-2f-203** is amended to read:

606 **61-2f-203 . Licensing requirements.**

- 607 (1)(a)(i) The division shall determine whether an applicant with a criminal history
608 qualifies for licensure.
- 609 (ii) If the division, acting under Subsection (1)(a)(i), denies or restricts a license or
610 places a license on probation, the applicant may petition the commission for de
611 novo review of the application.
- 612 (b) Except as provided in Subsection (6), the commission shall determine all other
613 qualifications and requirements of an applicant for:
- 614 (i) a principal broker license;
615 (ii) an associate broker license;
616 (iii) a sales agent license; or
617 (iv) on or after [~~July 1, 2026~~] January 1, 2027, a property manager license.
- 618 (c) The division, with the concurrence of the commission, shall require and pass upon
619 proof necessary to determine the honesty, integrity, truthfulness, reputation, and
620 competency of each applicant for an initial license or for renewal of an existing
621 license.
- 622 (d)(i)(A) Except as provided in Subsection (1)(d)(i)(B), the division, with the
623 concurrence of the commission, shall require an applicant for a sales agent
624 license to complete a division-approved educational program consisting of not
625 less than 120 hours, as designated by rule the commission makes in accordance
626 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with the
627 concurrence of the division.
- 628 (B) If on the day on which an applicant for a sales agent license applies for the
629 license the applicant is licensed as a real estate sales agent in another state, the
630 division may require the applicant to complete a division-approved,
631 state-specific educational program consisting of the number of hours
632 designated by rule the commission makes in accordance with Title 63G,
633 Chapter 3, Utah Administrative Rulemaking Act, with the concurrence of the
634 division.
- 635 (ii)(A) Except as provided in Subsection (1)(d)(ii)(B), the division, with the
636 concurrence of the commission, shall require an applicant for an associate
637 broker or a principal broker license to complete a division-approved
638 educational program consisting of not less than 120 hours, as designated by
639 rule the commission makes in accordance with Title 63G, Chapter 3, Utah
640 Administrative Rulemaking Act, with the concurrence of the division.

641 (B) If on the day on which an applicant for an associate broker or a principal
642 broker license applies for the license the applicant is licensed as a real estate
643 broker in another state, the division may require the applicant to complete a
644 division-approved, state-specific educational program consisting of the number
645 of hours designated by rule the commission makes in accordance with Title
646 63G, Chapter 3, Utah Administrative Rulemaking Act, with the concurrence of
647 the division.

648 (iii)(A) On or after [~~July 1, 2026~~] January 1, 2027, except as provided in
649 Subsection (1)(d)(iii)(B), the division shall require that an applicant for a
650 property manager license complete the educational program described in
651 Subsection (1)(d)(iv).

652 (B) On or after [~~July 1, 2026~~] January 1, 2027, if on the day on which an applicant
653 for a property manager license applies for the license, the applicant is licensed
654 as a property manager in another state, the division may require the applicant
655 to complete a division-approved, state-specific educational program consisting
656 of the number of hours designated by rule the commission makes in
657 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
658 with the concurrence of the division.

659 (iv) The division shall create an educational program for a property manager license
660 that:

661 (A) requires at least 24 hours of training;

662 (B) covers subjects the division determines necessary for the program; and

663 (C) establishes the proportion of hours allocated for each subject in the program.

664 (v) An hour required by this section means 50 minutes of instruction in each 60
665 minutes.

666 (vi) The maximum number of program hours available to an individual is eight hours
667 per day.

668 (e)(i) Except as provided in Subsection (1)(e)(ii), the division, with the concurrence
669 of the commission, shall require an applicant to pass an examination approved by
670 the commission covering:

671 (A) the fundamentals of the English language;

672 (B) the fundamentals of arithmetic;

673 (C) the fundamentals of bookkeeping;

674 (D) the fundamentals of real estate principles and practices;

- 675 (E) this chapter;
- 676 (F) the rules established by the commission with the concurrence of the division;
- 677 and
- 678 (G) any other aspect of Utah real estate license law considered appropriate.
- 679 (ii) If on the day on which an applicant applies for a license the applicant is licensed
- 680 as a real estate broker or a sales agent in another state, the division may, with the
- 681 concurrence of the commission, require the applicant to pass a division-approved,
- 682 state-specific examination rather than the examination required under Subsection
- 683 (1)(e)(i).
- 684 (iii) Subject to Subsection (1)(e)(iv), the division, with the concurrence of the
- 685 commission, may modify the length and material of an examination for a property
- 686 manager license under this chapter if:
- 687 (A) an applicant is licensed as a property manager in another state;
- 688 (B) the division determines an applicant's prior experience warrants a modification
- 689 of the examination; or
- 690 (C) the division determines the applicant has good cause for the modification of
- 691 the examination.
- 692 (iv) On or after [~~July 1, 2026~~] January 1, 2027, an examination for a property manager
- 693 license shall:
- 694 (A) cover the topics that appear in the educational program described in
- 695 Subsection (1)(d)(iv); and
- 696 (B) match the proportion of questions for each topic to the proportion of hours
- 697 designated by the division in accordance with Subsection (1)(d)(iv)(C).
- 698 (f)(i) Three years' full-time experience as a sales agent or the equivalent is required
- 699 before an applicant may apply for, and secure a principal broker or associate
- 700 broker license in this state.
- 701 (ii) The commission shall establish by rule made in accordance with Title 63G,
- 702 Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the
- 703 division, the criteria by which the commission will accept experience or special
- 704 education in similar fields of business in lieu of the three years' experience.
- 705 (2)(a) The division, with the concurrence of the commission, may require an applicant to
- 706 furnish a sworn statement setting forth evidence satisfactory to the division of the
- 707 applicant's reputation and competency as set forth by rule.
- 708 (b) The division shall require an applicant to provide the applicant's social security

- 709 number, which is a private record under Subsection 63G-2-302(1)(i).
- 710 (3)(a) An individual who is not a resident of this state may be licensed in this state if the
711 individual complies with this chapter.
- 712 (b) An individual who is not a resident of this state may be licensed as an associate
713 broker or sales agent in this state by:
- 714 (i) complying with this chapter; and
- 715 (ii) being employed or engaged as an independent contractor by or on behalf of a
716 principal broker who is licensed in this state, regardless of whether the principal
717 broker is a resident of this state.
- 718 (4) The division, with the concurrence of the commission, may enter into a reciprocal
719 licensing agreement with another jurisdiction for the licensure of a principal broker, an
720 associate broker, or a sales agent, if the jurisdiction's requirements and standards for the
721 license are substantially similar to those of this state.
- 722 (5)(a) The division and commission shall treat an application to be relicensed of an
723 applicant whose real estate license is revoked as an original application.
- 724 (b) In the case of an applicant for a new license as a principal broker or associate broker,
725 the applicant is not entitled to credit for experience gained before the revocation of a
726 real estate license.
- 727 (6)(a) Notwithstanding Subsection (1)(b), the commission may delegate to the division
728 the authority to:
- 729 (i) review a class or category of applications for initial or renewed licenses;
- 730 (ii) determine whether an applicant meets the licensing criteria in Subsection (1); and
- 731 (iii) approve or deny a license application without concurrence by the commission.
- 732 (b)(i) If the commission delegates to the division the authority to approve or deny an
733 application without concurrence by the commission and the division denies an
734 application for licensure, the applicant who is denied licensure may petition the
735 commission for de novo review of the application.
- 736 (ii) An applicant who is denied licensure [~~pursuant to~~] in accordance with this
737 Subsection (6) may seek agency review by the executive director only after the
738 commission has reviewed the division's denial of the applicant's application.
- 739 (7) On or after [~~July 1, 2026~~] January 1, 2027, an individual with an active broker, associate
740 broker, or sales agent license may obtain a property manager license without:
- 741 (a) meeting the education requirement described in Subsection (1)(d)(iii); or
- 742 (b) passing an exam required for a property manager license under Subsection (1)(e).

743 Section 9. Section **61-2f-204** is amended to read:

744 **61-2f-204 . Licensing fees and procedures -- Renewal fees and procedures.**

745 (1)(a) Upon filing an application for an examination for a license under this chapter, the
746 applicant shall pay a nonrefundable fee established in accordance with Section
747 63J-1-504 for admission to the examination.

748 (b) An applicant for a principal broker, associate broker, sales agent, or property
749 manager license shall pay a nonrefundable fee as determined by the commission with
750 the concurrence of the division under Section 63J-1-504 for issuance of an initial
751 license or license renewal.

752 (c) The division shall issue a license under this Subsection (1) for a period of not less
753 than two years as the division determines with the concurrence of the commission.

754 (d)(i) Each of the following applicants shall comply with this Subsection (1)(d):

755 (A) a new sales agent applicant;

756 (B) a principal broker applicant;

757 (C) an associate broker applicant; and

758 (D) on or after January 1, 2027, a property manager applicant.

759 (ii) An applicant described in this Subsection (1)(d) shall at the time the applicant
760 files an application:

761 (A) submit to the division fingerprint cards in a form acceptable to the Department
762 of Public Safety;

763 (B) submit to the division a signed waiver in accordance with Subsection
764 53-10-108(4), acknowledging the registration of the applicant's fingerprints in
765 the Federal Bureau of Investigation Next Generation Identification System's
766 Rap Back Service;

767 (C) consent to a criminal background check by the Utah Bureau of Criminal
768 Identification and the Federal Bureau of Investigation; and

769 (D) pay the fee the division establishes in accordance with Subsection (1)(d)(iv).

770 (iii) The Bureau of Criminal Identification shall:

771 (A) check the fingerprints an applicant submits under Subsection (1)(d)(ii) against
772 the applicable state, regional, and national criminal records databases,
773 including the Federal Bureau of Investigation Next Generation Identification
774 System;

775 (B) report the results of the background check to the division;

776 (C) maintain a separate file of fingerprints that applicants submit under Subsection

- 777 (1)(d) for search by future submissions to the local and regional criminal
778 records databases, including latent prints;
- 779 (D) request that the fingerprints be retained in the Federal Bureau of Investigation
780 Next Generation Identification System's Rap Back Service for search by future
781 submissions to national criminal records databases, including the Next
782 Generation Identification System and latent prints; and
- 783 (E) ensure that the division only receives notifications for an individual with
784 whom the division maintains permission to receive notifications.
- 785 (iv)(A) The division shall assess an applicant who submits fingerprints under this
786 Subsection (1)(d) or (2)(f) a fee in an amount that the division sets in
787 accordance with Section 63J-1-504 for services that the division and the
788 Bureau of Criminal Identification or another authorized agency provide under
789 this Subsection (1)(d) or (2)(f).
- 790 (B) The Bureau of Criminal Identification may collect from the division money
791 for services provided under this section.
- 792 (v) Money paid to the division by an applicant for the cost of the criminal
793 background check is nonlapsing.
- 794 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
795 and with the concurrence of the division, the commission may make rules for the
796 administration of this Subsection (1)(d) and Subsection (2)(f) regarding criminal
797 background checks with ongoing monitoring.
- 798 (e)(i) A license issued under Subsection (1)(d) is conditional, pending completion of
799 the criminal background check.
- 800 (ii) If a criminal background check discloses that an applicant fails to accurately
801 disclose a criminal history, the division:
- 802 (A) shall review the application; and
- 803 (B) in accordance with rules made by the division [~~pursuant to~~] in accordance with
804 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may:
- 805 (I) place a condition on a license;
- 806 (II) place a restriction on a license;
- 807 (III) revoke a license; or
- 808 (IV) refer the application to the commission for a decision.
- 809 (iii)(A) An individual whose conditional license is conditioned, restricted, or
810 revoked under Subsection (1)(e)(ii) may have a hearing after the action is taken

- 811 to challenge the action.
- 812 (B) The division shall conduct a hearing described in Subsection (1)(e)(iii)(A) in
813 accordance with Title 63G, Chapter 4, Administrative Procedures Act.
- 814 (iv) The director shall designate one of the following to act as the presiding officer in
815 a hearing described in Subsection (1)(e)(iii)(A):
- 816 (A) the division; or
- 817 (B) the division with the concurrence of the commission.
- 818 (v) The presiding officer shall decide whether to grant relief from an action under this
819 Subsection (1)(e).
- 820 (vi) If a license is revoked or a revocation under this Subsection (1)(e) is upheld after
821 a hearing, the individual may not apply for a new license until at least 12 months
822 after the day on which the license is revoked.
- 823 (2)(a)(i) A license expires if the license is not renewed on or before the expiration
824 date of the license.
- 825 (ii) As a condition of renewal, an active licensee shall demonstrate competence by
826 completing 18 hours of continuing education within a two-year renewal period
827 subject to rules made by the commission, with the concurrence of the division.
- 828 (iii) In making a rule described in Subsection (2)(c)(ii), the division and commission
829 shall consider:
- 830 (A) evaluating continuing education based on competency, rather than course time;
- 831 (B) allowing completion of courses in a significant variety of topic areas that the
832 division and commission determine are valuable in assisting an individual
833 licensed under this chapter to increase the individual's competency; and
- 834 (C) allowing completion of courses that will increase a licensee's professional
835 competency in the area of practice of the licensee.
- 836 (iv) The division may award credit to a licensee for a continuing education
837 requirement of this Subsection (2)(a) for a reasonable time period upon a finding
838 of reasonable cause, including:
- 839 (A) military service; or
- 840 (B) if an individual is elected or appointed to government service, the individual's
841 government service during which the individual spends a substantial time
842 addressing real estate issues subject to conditions established by rule made in
843 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 844 (b) For a period of 30 days after the day on which a license expires, the division may

- 845 reinstatement of the license:
- 846 (i) if the applicant's license was inactive on the day on which the applicant's license
- 847 expired, upon payment of a renewal fee and a late fee determined by the
- 848 commission with the concurrence of the division under Section 63J-1-504; or
- 849 (ii) if the applicant's license was active on the day on which the applicant's license
- 850 expired, upon payment of a renewal fee and a late fee determined by the
- 851 commission with the concurrence of the division under Section 63J-1-504, and
- 852 providing proof acceptable to the division and the commission of the licensee
- 853 having:
- 854 (A) completed the hours of education required by Subsection (2)(a); or
- 855 (B) demonstrated competence as required under Subsection (2)(a).
- 856 (c) After the 30-day period described in Subsection (2)(b), and until one year after the
- 857 day on which an active or inactive license expires, the division may reinstate the
- 858 license if the applicant:
- 859 (i) pays a renewal fee and a late fee determined by the commission with the
- 860 concurrence of the division under Section 63J-1-504; and
- 861 (ii) provides proof acceptable to the division and the commission of the licensee
- 862 having:
- 863 (A) completed the hours of education required by Subsection (2)(a); or
- 864 (B) demonstrated competence as required under Subsection (2)(a).
- 865 (d) The division shall relicense an individual who does not renew that individual's
- 866 license within one year as prescribed for an original application.
- 867 (e) Notwithstanding Subsection (2)(a), the division may extend the term of a license that
- 868 would expire under Subsection (2)(a) except for the extension if:
- 869 (i)(A) the individual complies with the requirements of this section to renew the
- 870 license; and
- 871 (B) the renewal application remains pending at the time of the extension; or
- 872 (ii) at the time of the extension, there is pending a disciplinary action under this
- 873 chapter.
- 874 (f) Each applicant for renewal or reinstatement of a license to practice as a sales agent,
- 875 principal broker, associate broker, or a property manager, who is not already subject
- 876 to ongoing monitoring of the individual's criminal history shall, at the time the
- 877 application for renewal or reinstatement is filed:
- 878 (i) submit fingerprint cards in a form acceptable to the Department of Public Safety;

- 879 (ii) submit to the division a signed waiver in accordance with Subsection
 880 53-10-108(4), acknowledging the registration of the applicant's fingerprints in the
 881 Federal Bureau of Investigation Next Generation Identification System's Rap
 882 Back Service;
- 883 (iii) consent to a fingerprint background check by the Utah Bureau of Criminal
 884 Identification and the Federal Bureau of Investigation; and
- 885 (iv) pay the fee the division establishes in accordance with Subsection (1)(d)(iv).
- 886 (3)(a) As a condition for the activation of an inactive license that was in an inactive
 887 status at the time of the licensee's most recent renewal, the licensee shall supply the
 888 division with proof of:
- 889 (i) successful completion of the respective sales agent or principal broker licensing
 890 examination within six months before the day on which the licensee applies to
 891 activate the license; or
- 892 (ii) the successful completion of the hours of continuing education that the licensee
 893 would have been required to complete under Subsection (2)(a) if the license had
 894 been on active status at the time of the licensee's most recent renewal.
- 895 (b) The commission may, in accordance with Title 63G, Chapter 3, Utah Administrative
 896 Rulemaking Act, subject to concurrence by the division, establish by rule:
- 897 (i) the nature or type of continuing education required for reactivation of a license;
 898 and
- 899 (ii) how long before reactivation the continuing education must be completed.

900 Section 10. Section **61-2f-302** is amended to read:

901 **61-2f-302 . Affiliation with a principal broker.**

- 902 (1) An individual who is not a principal broker may not engage in an act described in
 903 Section 61-2f-201 unless the individual is affiliated with a principal broker as:
- 904 (a) an associate broker; or
 905 (b) a sales agent.
- 906 (2)(a) An inactive associate broker or sales agent may not conduct a real estate
 907 transaction until the inactive associate broker or sales agent becomes affiliated with a
 908 principal broker and submits the required documentation to the division.
- 909 (b) An inactive principal broker may not conduct a real estate transaction until the
 910 principal broker's license is activated with the division.
- 911 (3) A sales agent or associate broker may not affiliate with more than one principal broker
 912 at the same time.

- 913 (4) An individual may not be a principal broker of an entity and a sales agent or associate
 914 broker for a different entity at the same time.
- 915 (5) An owner, purchaser, lessor, or lessee who engages the services of a principal broker
 916 may designate which sales agents or associate brokers affiliated with that principal
 917 broker will also represent that owner, purchaser, lessor, or lessee in the purchase, sale,
 918 lease, or exchange of real estate, or in exercising an option relating to real estate.
- 919 (6) Subject to Subsection (8), an individual licensed as a property manager under this
 920 chapter and is engaged, whether as an employee or an independent contractor, to
 921 perform real estate-related services by or on behalf of a principal broker, associate
 922 broker, or sales agent, shall affiliate with a principal broker before:
- 923 (a) engaging in property management;
 924 (b) offering to engage in property management on behalf of another person; or
 925 (c) advertising or otherwise holding the individual out to be engaged in property
 926 management.
- 927 (7) An individual described in Subsection (6) shall affiliate the individual's property
 928 manager license with:
- 929 (a) the same principal broker with whom the associate broker or sales agent for whom
 930 the property manager performs real estate-related services is affiliated; or
 931 (b) the person that the individual's employer or the person with whom the individual
 932 contracts is affiliated.
- 933 (8) An individual is not required to affiliate with a principal broker if the individual is:
- 934 (a) licensed as a property manager under this chapter; and
 935 (b)(i) not subject to the affiliation requirements described in Subsection (6);
 936 (ii) employed by a property management company that managed at least 750
 937 residential rental units in this state in any of the three previous calendar years; or
 938 (iii) employed by a housing authority, as that term is defined in Section 35A-8-401.
- 939 Section 11. Section **61-2f-309** is amended to read:
 940 **61-2f-309 . Record requirements.**
- 941 [~~(1) A brokerage shall make or possess any applicable record required for the brokerage to~~
 942 ~~maintain by rule made by the commission pursuant to Section 61-2f-103 for the time~~
 943 ~~period specified in Subsection (2).]~~
- 943a
 944 A brokerage and a property manager described in Subsection 61-2f-302(8) shall:
 945 (1) maintain and safeguard the following records to the extent the records relate to the

- 946 business of a principal broker:
- 947 (a) trust account records, including the monthly reconciliation of the trust account;
- 948 (b) each document that a licensee affiliated with the principal broker submits to a lender
- 949 or underwriter as part of a real estate transaction;
- 950 (c) each document the parties to a transaction jointly execute, if the principal broker or
- 951 an affiliated licensee is required to have an agency agreement; and
- 952 (d) each document that a licensee, over whom the principal broker has supervisory
- 953 responsibility in accordance with Subsection (1)(c), executes;
- 954 (2) maintain the records identified in Subsection (1):
- 955 (a)(i) physically:
- 956 (A) at the principal business location that the principal broker designates on
- 957 division records; or
- 958 (B) where applicable, at a branch office that the principal broker designates on
- 959 division records; or
- 960 (ii) electronically, in a storage system that complies with Title 46, Chapter 4,
- 961 Uniform Electronic Transactions Act; and
- 962 (b) for at least three calendar years after the year in which:
- 963 (i) an offer is rejected;
- 964 (ii) a transaction either closes or fails;
- 965 (iii) in a lease transaction, a lease agreement commences; or
- 966 (iv) the term of a property management agreement ends;
- 967 (3) upon request of the division, make a record identified in Subsection (1) available for
- 968 inspection and copying by the division;
- 969 (4) notify the division, in writing within ten business days after the day on which the
- 970 brokerage terminates business operations, of where the brokerage will maintain business
- 971 records; and
- 972 (5) upon filing for brokerage bankruptcy, notify the division, in writing, of:
- 973 (a) the brokerage bankruptcy filing; and
- 974 (b) the current location of each record identified in Subsection (1).
- 975 ~~[(2) A brokerage shall maintain and safeguard in the brokerage's possession a record~~
- 976 ~~described in Subsection (1) for three years following:]~~
- 977 ~~[(a) the day the transaction either closes or fails;]~~
- 978 ~~[(b) in a lease transaction, the day of the commencement of the lease;]~~
- 979 ~~[(c) the day an offer is rejected; or]~~

980 ~~[(d) the end of the term of a property management agreement.]~~

981 Section 12. Section **61-2f-402** is amended to read:

982 **61-2f-402 . Investigations -- Disciplinary actions.**

983 (1)(a) The division may conduct a public or private investigation within or outside of
984 this state as the division considers necessary to determine whether a person has
985 violated, is violating, or is about to violate this chapter or any rule or order under this
986 chapter.

987 (b) If a person makes a report that the person suspects or knows that a person has
988 violated, is violating, or will violate this chapter or a rule or order issued in
989 accordance with this chapter, the person shall make a report only to the division in a
990 form the division approves.

991 (c) Except for an action initiated in a court with jurisdiction, the division has exclusive
992 jurisdiction to investigate and enforce a violation or an alleged violation of this
993 chapter.

994 (2) To aid in the enforcement of this chapter or in the prescribing of rules and forms under
995 this chapter, the division may require or permit a person to file a statement in writing,
996 under oath or otherwise as to the facts and circumstances concerning the matter to be
997 investigated.

998 (3)(a) For the purpose of the investigation described in Subsection (1), the division or an
999 employee ~~[designated by]~~ that the division designates may:

1000 (i) administer an oath or affirmation;

1001 (ii) issue a subpoena that requires:

1002 (A) the attendance and testimony of a witness; or

1003 (B) the production of evidence;

1004 (iii) take evidence;

1005 (iv) require the production of a book, paper, contract, record, other document, or
1006 information relevant to the investigation; and

1007 (v) serve a subpoena by certified mail.

1008 (b) The division may not require the production of evidence, book, paper, contract,
1009 record, other document, or information required to be kept by a brokerage, or
1010 licensee ~~[pursuant to]~~ in accordance with Section 61-2f-309 after the expiration of the
1011 time in which the brokerage is required to maintain and safeguard the record as
1012 described in Section 61-2f-309.

1013 (4)(a) A court ~~[of competent]~~ with jurisdiction shall enforce, according to the practice

- 1014 and procedure of the court, a subpoena [~~issued by~~] that the division issues.
- 1015 (b) The division shall pay any witness fee, travel expense, mileage, or any other fee
1016 required by the service statutes of the state where the witness or evidence is located.
- 1017 (5)(a) Except as provided in Subsections (5)(b) and (c), the division shall commence an
1018 adjudicative proceeding under this chapter no later than the earlier of the following:
- 1019 (i) two years after the day on which the violation is reported to the division; or
1020 (ii) the [~~date~~] day on which the brokerage is no longer required to keep and maintain
1021 the records as provided in Section 61-2f-309.
- 1022 (b) The division may commence an adjudicative proceeding under this chapter after the
1023 time period described in Subsection (5)(a) expires if:
- 1024 (i)(A) the adjudicative proceeding is in response to a civil or criminal judgment or
1025 settlement; and
1026 (B) the division commences an adjudicative proceeding no later than one year
1027 after the day on which the judgment is issued or the settlement is final; or
1028 (ii) the division and the person subject to an adjudicative proceeding enter into a
1029 written stipulation to extend the time period described in Subsection (5)(a).
- 1030 (c) The time period described in Subsection (5)(a) is tolled during the division's
1031 enforcement of a subpoena under Subsection (4), including any resulting appeals.
- 1032 (6)(a) The division may publish notices of admonition, reprimand, suspension,
1033 revocation, and surrender with discipline pending in the division newsletter.
- 1034 (b) Nothing in this Subsection (6) [~~shall be construed to restrict~~] restricts the division's
1035 publication of information, including orders, irrespective of [~~their~~] the information's
1036 style or format, on the division's website.
- 1037 (c) Nothing in this Subsection (6) [~~shall be construed to restrict~~] restricts the division's
1038 publication of information as required by Title 52, Chapter 4, Open and Public
1039 Meetings Act.
- 1040 Section 13. Section **61-2f-411** is amended to read:
- 1041 **61-2f-411 . Enforcement related to a property manager -- Maintenance of client**
1042 **funds.**
- 1043 (1) Nothing in this section applies to an individual:
- 1044 (a) buying, selling, or exchanging real estate for another person; or
1045 (b) offering to buy, sell, or exchange real estate for another person.
- 1046 (2) When engaging in property management, a property manager may:
- 1047 (a) solicit referrals for clients, owners, customers, and renters;

- 1048 (b) pay a finder's fee or exchange valuable consideration to an unlicensed person for
1049 referring a prospective client;
- 1050 (c) accept a referral fee from an individual, whether licensed or unlicensed;
- 1051 (d) contract for services, pay bills, and act on behalf of an owner as provided in a
1052 management agreement; and
- 1053 (e) advertise properties for rent or lease.
- 1054 (3) Except as provided in Subsection (4), and subject to Subsection (5), a property manager
1055 shall associate with at least one real estate trust account in a bank or credit union:
- 1056 (a) located within the state;
- 1057 (b) that, unless otherwise modified by a contract for property management, one or more
1058 property managers use for the purpose of securing:
- 1059 (i) tenant security deposits;
- 1060 (ii) rent;
- 1061 (iii) money tendered by a property owner as a reserve fund or for payment of an
1062 unexpected expense; and
- 1063 (iv) any other purpose designated by the commission; and
- 1064 (c) that is non-interest bearing, unless the parties to a property management contract:
- 1065 (i) agree in writing to deposit the funds in an interest-bearing account;
- 1066 (ii) designate in writing the individuals to whom the parties will pay the interest on
1067 completion or failure of the property management contract; and
- 1068 (iii) ensure that the parties and trust account comply with any other rules established
1069 by the commission or division.
- 1070 (4) Except as provided in Subsection (5), ~~[a property manager who obtains and holds a~~
1071 ~~security bond that protects at least 30% of the estimated property management client~~
1072 ~~funds is not required to maintain the estimated property management client funds in a~~
1073 ~~trust account.]~~ a property manager is not required to maintain the property management
1074 client funds in a trust account if:
- 1075 (a) the property owner agrees in the property management agreement that the property
1076 manager is not required to hold property management client funds in a trust account;
1077 and
- 1078 (b) a lease agreement states that the property manager is not required to hold property
1079 management client funds in a trust account.
- 1080 (5) A property manager who is affiliated with a principal broker shall keep property
1081 management client funds in the principal broker's trust account in accordance with:

1082 (a) rules established by the commission or division; and

1083 (b) requirements established by the principal broker.

1084 Section 14. **Repealer.**

1085 This bill repeals:

1086 Section **61-2f-101, Title.**

1087 Section 15. **Effective Date.**

1088 This bill takes effect on May 6, 2026.