

Real Estate Transaction Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jake Sawyer

Senate Sponsor:

LONG TITLE**General Description:**

This bill enacts the Utah Real Estate Cybercrime Prevention Act.

Highlighted Provisions:

This bill:

- defines terms;
- makes failing to use the real estate transaction communication network (network) unprofessional conduct for employees of appraisal management companies, appraisers, escrow agents, mortgage lenders, mortgage loan originators, real estate sales agents, real estate brokers, title insurance licensees, and title insurers;
- makes violating a rule from the real estate transaction communication utility (utility) unprofessional conduct for appraisal management companies, appraisers, escrow agents, mortgage lenders, mortgage loan originators, real estate sales agents, real estate brokers, title insurance licensees, and title insurers;
- requires covered individuals to use the network to send covered communications related to real estate transactions;
- creates the Real Estate Communication Commission (commission) within the Department of Commerce to oversee the network;
- assigns the commission duties such as selecting a utility and approving fee schedules;
- grants the commission the power to issue or revoke a certificate of authority and recommend enforcement actions to other regulatory agencies;
- mandates that any person operating a network obtain a certificate of authority from the commission;
- requires the utility to submit all user eligibility rules and fee schedules to the commission for review and approval;
- directs the commission to perform criminal background checks on individuals who own 10% or more of the utility;
- directs the commission to automatically revoke a certificate of authority if an owner fails

to accurately disclose a criminal history involving fraud or deceit;

- establishes that a certificate of authority expires after two years and outlines the specific requirements for renewal; and

- defines unprofessional conduct as violating network rules or failing to use the network for covered communications.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

31A-2-404 (Effective 05/06/26), as last amended by Laws of Utah 2025, Chapter 175

61-2c-301 (Effective 01/01/28), as last amended by Laws of Utah 2025, Chapter 202

61-2g-502 (Effective 01/01/28), as last amended by Laws of Utah 2025, Chapter 175

ENACTS:

61-7-101 (Effective 05/06/26), Utah Code Annotated 1953

61-7-102 (Effective 01/01/28), Utah Code Annotated 1953

61-7-201 (Effective 05/06/26), Utah Code Annotated 1953

61-7-202 (Effective 05/06/26), Utah Code Annotated 1953

61-7-203 (Effective 05/06/26), Utah Code Annotated 1953

61-7-301 (Effective 05/06/26), Utah Code Annotated 1953

61-7-302 (Effective 05/06/26), Utah Code Annotated 1953

61-7-303 (Effective 05/06/26), Utah Code Annotated 1953

61-7-304 (Effective 05/06/26), Utah Code Annotated 1953

61-7-401 (Effective 05/06/26), Utah Code Annotated 1953

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

Section 1. Section **31A-2-404** is amended to read:

31A-2-404 (Effective 05/06/26). Duties of the commissioner and Title and Escrow Commission.

(1)(a) Notwithstanding the other provisions of this chapter, to the extent provided in this part, the commissioner shall administer and enforce the provisions in this title related to a title insurance matter.

(b)(i) [~~The commissioner may impose a penalty.~~]

65 ~~[(A) under this title related to a title insurance matter;]~~

66 ~~[(B) after investigation by the commissioner in accordance with Part 3, Procedures~~
67 ~~and Enforcement; and]~~

68 ~~[(C) that is enforced by the commissioner.]~~

69 If the commissioner makes

70 a finding under Subsection (b)(ii), as part of an adjudicative proceeding under
71 Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:

72 (A) revoke a license, a line of authority or certificate of authority;

73 (B) suspend for a specified period of 12 months or less a license, a line of
74 authority or certificate of authority;

75 (C) limit in whole or in part a license, a line of authority or certificate of authority;

76 (D) deny an application for a license, a line of authority or certificate of authority;

77 (E) assess a forfeiture under Subsection 31A-2-308; or

78 (F) take a combination of actions under Subsections (b)(i)(A) through (D) and
79 Subsection (b)(i)(E).

80 (ii) The commissioner may take action set forth in Subsection (b)(i):

81 (A) under this title related to a title insurance matter and under Section 61-7-401;

82 (B) after investigation by the commissioner in accordance with Part 3, Procedures
83 and Enforcement; and

84 (C) that is enforced by the commissioner.

85 ~~[(ii)] (iii) The commissioner shall consult with and seek concurrence of the~~
86 commission in a meeting subject to Title 52, Chapter 4, Open and Public Meetings
87 Act, regarding the imposition of a penalty, and if concurrence cannot be reached,
88 the commissioner has final authority.

89 (c)(i) Unless a provision of this title grants specific authority to the commission, the
90 commissioner has authority over the implementation of this title related to a title
91 insurance matter.

92 (ii) When a provision requires concurrence between the commission and
93 commissioner, and concurrence cannot be reached, the commissioner has final
94 authority.

95 (d) Except as provided in Subsection (1)(e), when this title requires concurrence
96 between the commissioner and commission related to a title insurance matter:

97 (i) the commissioner shall report to and update the commission on a regular basis
 related to that title insurance matter; and

- 98 (ii) the commission shall review the report submitted by the commissioner under this
99 Subsection (1)(d); [and]
100 (A) concur with the report; or
101 (B) provide a reason for not concurring with the report and provide
102 recommendations to the commissioner.
- 103 (e) When this title requires concurrence between the commissioner and commission
104 under Subsection (2), (3), or (4):
105 (i) the commission shall report to and update the commissioner on a regular basis
106 related to that title insurance matter; and
107 (ii) the commissioner shall review a report submitted by the commission under this
108 Subsection (1)(e) and concur with the report or:
109 (A) provide a reason for not concurring with the report; and
110 (B) provide recommendations to the commission.
- 111 (2) The commission shall:
112 (a) subject to Subsection (4), make rules for the administration of the provisions in this
113 title related to title insurance matters including rules related to:
114 (i) rating standards and rating methods for a title licensee, as provided in Section
115 31A-19a-209;
116 (ii) the licensing for a title licensee, including the licensing requirements of Section
117 31A-23a-204;
118 (iii) continuing education requirements of Section 31A-23a-202; and
119 (iv) standards of conduct for a title licensee;
- 120 (b) concur in the issuance and renewal of a license in accordance with Section
121 31A-23a-105 or 31A-26-203;
- 122 (c) with the concurrence of the commissioner, approve a continuing education program
123 required by Section 31A-23a-202;
- 124 (d) on a regular basis advise the commissioner of the most critical matters affecting the
125 title insurance industry and request the commissioner to direct the department's
126 investigative resources to investigate and enforce those matters;
- 127 (e) in accordance with Section 31A-23a-204, participate in the annual license testing
128 evaluation conducted by the commissioner's test administrator;
- 129 (f) advise the commissioner on matters affecting the commissioner's budget related to
130 title insurance; and
131 (g) perform other duties as provided in this title.

- (3) The commission may make rules establishing an examination for a license that will satisfy Section 31A-23a-204:
- (a) after consultation with the commissioner's test administrator; and
 - (b) subject to Subsection (4).
- (4)(a) The commission may make a rule under this title only:
- (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - (ii) with the concurrence of the commissioner, except that if concurrence cannot be reached, the commissioner has final authority; and
 - (iii) if at the time the commission files the commission's proposed rule and rule analysis with the Office of Administrative Rules in accordance with Section 63G-3-301, the commission provides the Real Estate Commission that same information.
- (b) The commission may not make a rule regarding adjudicative procedures.
- (c) In accordance with Section 31A-2-201, the commissioner may make rules regarding adjudicative procedures.
- (5)(a) The commissioner shall annually report the information described in Subsection (5)(b) in writing to the commission.
- (b) The information required to be reported under this Subsection (5):
- (i) may not identify a person; and
 - (ii) shall include:
 - (A) the number of complaints the commissioner receives with regard to transactions involving title insurance or a title licensee during the calendar year immediately proceeding the report;
 - (B) the type of complaints described in Subsection (5)(b)(ii)(A); and
 - (C) for each complaint described in Subsection (5)(b)(ii)(A):
 - (I) any action taken by the commissioner with regard to the complaint; and
 - (II) the time-period beginning the day on which a complaint is made and ending the day on which the commissioner determines it will take no further action with regard to the complaint.
- Section 2. Section **61-2c-301** is amended to read:
- 61-2c-301 (Effective 01/01/28). Prohibited conduct -- Violations of the chapter.**
- (1) As used in this section:
- (a) "Prescreened trigger lead information" means information derived from a consumer report that is given to a third party that is not affiliated with the consumer.

166 (b)(i) "Solicitation" means contacting a consumer to market mortgage loan services.

167 (ii) "Solicitation" includes:

168 (A) accepting or offering to accept a mortgage loan application;

169 (B) helping or offering to help process a mortgage loan application;

170 (C) soliciting or offering to solicit a mortgage loan for a third party; or

171 (D) negotiating or offering to negotiate the terms of a mortgage loan with a lender
172 for a third party.

173 (2) A person, when transacting the business of residential mortgage loans in this state, may
174 not:

175 (a) violate Section 8 of RESPA;

176 (b) charge a fee in connection with a residential mortgage loan transaction:

177 (i) that is excessive; or

178 (ii) without providing to the loan applicant a written statement signed by the loan
179 applicant:

180 (A) stating whether the fee or deposit is refundable; and

181 (B) describing the conditions, if any, under which all or a portion of the fee or
182 deposit will be refunded to the loan applicant;

183 (c) act incompetently in the transaction of the business of residential mortgage loans
184 resulting in the person failing to:

185 (i) safeguard the interests of the public; or

186 (ii) conform to acceptable standards of the residential mortgage loan industry;

187 (d) do any of the following as part of a residential mortgage loan transaction, regardless
188 of whether the residential mortgage loan closes:

189 (i) make a false statement or representation;

190 (ii) cause false documents to be generated; or

191 (iii) knowingly permit false information to be submitted by any party;

192 (e) give or receive compensation or anything of value, or withhold or threaten to
193 withhold payment of an appraiser fee, to influence the independent judgment of an
194 appraiser in reaching a value conclusion in a residential mortgage loan transaction,
195 except that it is not a violation of this section for a licensee to withhold payment
196 because of a bona fide dispute regarding a failure of the appraiser to comply with the
197 licensing law or the Uniform Standards of Professional Appraisal Practice;

198 (f) violate or not comply with:

199 (i) this chapter;

- (ii) an order of the commission or division; or
 - (iii) a rule made by the division;
- (g) fail to respond within the required time period to:
 - (i) a notice or complaint of the division; or
 - (ii) a request for information from the division;
- (h) make false representations to the division, including in a licensure statement;
- (i) engage in the business of residential mortgage loans with respect to the transaction if the person also acts in any of the following capacities with respect to the same residential mortgage loan transaction:
 - (i) appraiser;
 - (ii) escrow agent;
 - (iii) real estate agent;
 - (iv) general contractor; or
 - (v) title insurance producer;
- (j) engage in unprofessional conduct as defined by rule;
- (k) engage in an act or omission in transacting the business of residential mortgage loans that constitutes dishonesty, fraud, or misrepresentation;
- (l) engage in false or misleading advertising;
- (m)(i) fail to account for money received in connection with a residential mortgage loan;
- (ii) use money for a different purpose from the purpose for which the money is received; or
 - (iii) except as provided in Subsection (5), retain money paid for services if the services are not performed;
- (n) fail to provide a prospective borrower a copy of each appraisal and any other written valuation developed in connection with an application for credit that is to be secured by a first lien on a dwelling in accordance with Subsection (6);
- (o) engage in an act that is performed to:
 - (i) evade this chapter; or
 - (ii) assist another person to evade this chapter;
- (p) recommend or encourage default, delinquency, or continuation of an existing default or delinquency, by a mortgage applicant on an existing indebtedness before the closing of a residential mortgage loan that will refinance all or part of the indebtedness;

- (q) in the case of the lending manager of an entity or a branch office of an entity, fail to exercise reasonable supervision over the activities of:
- (i) unlicensed staff; or
 - (ii) a mortgage loan originator who is affiliated with the lending manager;
- (r) pay or offer to pay an individual who does not hold a license under this chapter for work that requires the individual to hold a license under this chapter;
- (s) in the case of a dual licensed title licensee as defined in Section 31A-2-402:
- (i) provide a title insurance product or service without the approval required by Section 31A-2-405; or
 - (ii) knowingly provide false or misleading information in the statement required by Subsection 31A-2-405(2);
- (t) represent to the public that the person can or will perform any act of a mortgage loan originator if that person is not licensed under this chapter because the person is exempt under Subsection 61-2c-105(4), including through:
- (i) advertising;
 - (ii) a business card;
 - (iii) stationery;
 - (iv) a brochure;
 - (v) a sign;
 - (vi) a rate list; or
 - (vii) other promotional item;
- (u)(i) engage in an act of loan modification assistance without being licensed under this chapter;
- (ii) engage in an act of foreclosure rescue that requires licensure as a real estate agent or real estate broker under Chapter 2, Division of Real Estate, without being licensed under that chapter;
- (iii) engage in an act of loan modification assistance without entering into a written agreement specifying which one or more acts of loan modification assistance will be completed;
- (iv) request or require a person to pay a fee before obtaining:
- (A) a written offer for a loan modification from the person's lender or servicer; and
 - (B) the person's written acceptance of the offer from the lender or servicer;
- (v) induce a person seeking a loan modification to hire the licensee to engage in an act of loan modification assistance by:

- 268 (A) suggesting to the person that the licensee has a special relationship with the
269 person's lender or loan servicer; or
- 270 (B) falsely representing or advertising that the licensee is acting on behalf of:
271 (I) a government agency;
272 (II) the person's lender or loan servicer; or
273 (III) a nonprofit or charitable institution;
- 274 (vi) recommend or participate in a loan modification that requires a person to:
275 (A) transfer title to real property to the licensee or to a third-party with whom the
276 licensee has a business relationship or financial interest;
277 (B) make a mortgage payment to a person other than the person's loan servicer; or
278 (C) refrain from contacting the person's:
279 (I) lender;
280 (II) loan servicer;
281 (III) attorney;
282 (IV) credit counselor; or
283 (V) housing counselor; or
- 284 (vii) for an agreement for loan modification assistance entered into on or after May
285 11, 2010, engage in an act of loan modification assistance without offering in
286 writing to the person entering into the agreement for loan modification assistance
287 a right to cancel the agreement within three business days after the day on which
288 the person enters the agreement;
- 289 (v) sign or initial a document on behalf of another person, except for in a circumstance
290 allowed by the division by rule, with the concurrence of the commission, made in
291 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 292 (w) violate or fail to comply with a provision of Title 57, Chapter 28, Utah Reverse
293 Mortgage Act;
- 294 (x) engage in any act or practice that violates appraisal independence as defined in 15
295 U.S.C. Sec. 1639e or in the policies and procedures of:
296 (i) the Federal Home Loan Mortgage Corporation; or
297 (ii) the Federal National Mortgage Association; or
- 298 (y) use prescreened trigger lead information to solicit a consumer who has applied for a
299 mortgage loan with another financial institution, if the person:
300 (i) fails to state in the initial solicitation that the person is not affiliated with the
301 mortgage loan company or mortgage loan broker with which the consumer

- 302 initially applied;
- 303 (ii) fails in the initial solicitation to conform to state and federal law relating to
- 304 solicitations using consumer reports, including the requirement to make a firm
- 305 offer of credit to the consumer; [or]
- 306 (iii) solicits a consumer with an offer of certain rates, terms, and costs with the
- 307 knowledge that the person will subsequently change the rates, terms, or costs to
- 308 the detriment of the consumer[-] ; or
- 309 (iv) commits unprofessional conduct in accordance with Section 61-7-401.
- 310 (3) Regardless of whether the crime is related to the business of residential mortgage loans,
- 311 it is a violation of this chapter for a licensee or a person who is a certified education
- 312 provider to:
- 313 (a) be convicted of:
- 314 (i) a felony; or
- 315 (ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:
- 316 (A) a class A misdemeanor;
- 317 (B) a class B misdemeanor; or
- 318 (C) a criminal offense comparable to a class A or class B misdemeanor;
- 319 (b) plead guilty or nolo contendere to:
- 320 (i) a felony; or
- 321 (ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:
- 322 (A) a class A misdemeanor;
- 323 (B) a class B misdemeanor; or
- 324 (C) a criminal offense comparable to a class A or class B misdemeanor; or
- 325 (c) enter into a plea in abeyance agreement in relation to:
- 326 (i) a felony; or
- 327 (ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:
- 328 (A) a class A misdemeanor;
- 329 (B) a class B misdemeanor; or
- 330 (C) a criminal offense comparable to a class A or class B misdemeanor.
- 331 (4) A lending manager does not violate Subsection (2)(q) if:
- 332 (a) in contravention of the lending manager's written policies and instructions, an
- 333 affiliated licensee of the lending manager violates:
- 334 (i) this chapter; or
- 335 (ii) rules made by the division under this chapter;

- (b) the lending manager established and followed reasonable procedures to ensure that affiliated licensees receive adequate supervision;
- (c) upon learning of a violation by an affiliated licensee, the lending manager attempted to prevent or mitigate the damage;
- (d) the lending manager did not participate in or ratify the violation by an affiliated licensee; and
- (e) the lending manager did not attempt to avoid learning of the violation.

(5) Notwithstanding Subsection (2)(m)(iii), a licensee may, upon compliance with Section 70D-2-305, charge a reasonable cancellation fee for work done originating a mortgage if the mortgage is not closed.

(6)(a) Except as provided in Subsection (6)(b), a person transacting the business of residential mortgage loans in this state shall provide a prospective borrower a copy of each appraisal and any other written valuation developed in connection with an application for credit that is to be secured by a first lien on a dwelling on or before the earlier of:

- (i) as soon as reasonably possible after the appraisal or other valuation is complete; or
- (ii) three business days before the day of the settlement.

(b) Subject to Subsection (6)(c), unless otherwise prohibited by law, a prospective borrower may waive the timing requirement described in Subsection (6)(a) and agree to receive each appraisal and any other written valuation:

- (i) less than three business days before the day of the settlement; or
- (ii) at the settlement.

(c)(i) Except as provided in Subsection (6)(c)(ii), a prospective borrower shall submit a waiver described in Subsection (6)(b) at least three business days before the day of the settlement.

- (ii) Subsection (6)(b) does not apply if the waiver only pertains to a copy of an appraisal or other written valuation that contains only clerical changes from a previous version of the appraisal or other written valuation and the prospective borrower received a copy of the original appraisal or other written valuation at least three business days before the day of the settlement.

(d) If a prospective borrower submits a waiver described in Subsection (6)(b) and the transaction never completes, the person transacting the business of residential mortgage loans shall provide a copy of each appraisal or any other written valuation to the applicant no later than 30 days after the day on which the person knows the

transaction will not complete.

Section 3. Section **61-2g-502** is amended to read:

61-2g-502 (Effective 01/01/28). Disciplinary action -- Grounds.

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

(i) registered, licensed, or certified under this chapter; or

(ii) required to be registered, licensed, or certified under this chapter.

(b) On the basis of a ground listed in Subsection (2) for disciplinary action, board action may include:

(i) revoking, suspending, or placing a person's registration, license, or certification on probation;

(ii) denying a person's original registration, license, or certification;

(iii) denying a person's renewal license, certification, or registration;

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

(v) ordering remedial education;

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

(A) \$5,000 for each violation; or

(B) the amount of any gain or economic benefit from a violation;

(vii) issuing a cease and desist order;

(viii) modifying an action described in Subsections (1)(b)(i) through (vii) if the board, with the concurrence of the division, finds that the person complies with court ordered restitution; or

(ix) doing any combination of Subsections (1)(b)(i) through (viii).

(c)(i) If the board or division issues an order that orders a fine or educational requirements as part of the disciplinary action against a person, including a stipulation and order, the board or division shall state in the order the deadline by which the person shall comply with the fine or educational requirements.

(ii) If a person fails to comply with a stated deadline:

(A) the person's license, certificate, or registration is automatically suspended:

(I) beginning on the day specified in the order as the deadline for compliance;

and

(II) ending the day on which the person complies in full with the order; and

- 404 (B) if the person fails to pay a fine required by an order, the division may begin a
405 collection process:
- 406 (I) established by the division by rule made in accordance with Title 63G,
407 Chapter 3, Utah Administrative Rulemaking Act; and
408 (II) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.
- 409 (2) The following are grounds for disciplinary action under this section:
- 410 (a) procuring or attempting to procure a registration, license, or certification under this
411 chapter:
- 412 (i) by fraud; or
413 (ii) by making a false statement, submitting false information, or making a material
414 misrepresentation in an application filed with the division;
- 415 (b) paying money or attempting to pay money other than a fee provided for by this
416 chapter to a member or employee of the division to procure a registration, license, or
417 certification under this chapter;
- 418 (c) an act or omission in the practice of real estate appraising that constitutes dishonesty,
419 fraud, or misrepresentation;
- 420 (d) entry of a judgment against a registrant, licensee, or certificate holder on grounds of
421 fraud, misrepresentation, or deceit in the making of an appraisal of real estate;
- 422 (e) regardless of whether the crime is related to the appraisal business, to:
- 423 (i) be convicted of a felony;
- 424 (ii) be convicted of any of the following involving fraud, misrepresentation, theft, or
425 dishonesty:
- 426 (A) a class A misdemeanor;
- 427 (B) a class B misdemeanor; or
428 (C) a criminal offense comparable to a class A or class B misdemeanor;
- 429 (iii) plead guilty or nolo contendere to a felony;
- 430 (iv) plead guilty or nolo contendere to any of the following involving fraud,
431 misrepresentation, theft, or dishonesty:
- 432 (A) a class A misdemeanor;
- 433 (B) a class B misdemeanor; or
434 (C) a criminal offense comparable to a class A or class B misdemeanor;
- 435 (v) enter into a plea in abeyance agreement involving a felony; or
436 (vi) enter into a plea in abeyance agreement involving any of the following involving
437 fraud, misrepresentation, theft, or dishonesty:

- 438 (A) a class A misdemeanor;
- 439 (B) a class B misdemeanor; or
- 440 (C) a criminal offense comparable to a class A or class B misdemeanor;
- 441 (f) engaging in the business of real estate appraising under an assumed or fictitious name
- 442 not properly registered in this state;
- 443 (g) paying a finder's fee or a referral fee to a person not licensed or certified under this
- 444 chapter in connection with an appraisal of real estate or real property in this state;
- 445 (h) making a false or misleading statement in:
- 446 (i) that portion of a written appraisal report that deals with professional
- 447 qualifications; or
- 448 (ii) testimony concerning professional qualifications;
- 449 (i) violating or disregarding:
- 450 (i) this chapter;
- 451 (ii) an order of:
- 452 (A) the board; or
- 453 (B) the division, in a case when the board delegates to the division the authority to
- 454 make a decision on behalf of the board; or
- 455 (iii) a rule issued under this chapter;
- 456 (j) violating the confidential nature of governmental records to which a person
- 457 registered, licensed, or certified under this chapter gained access through
- 458 employment or engagement as an appraiser by a governmental agency;
- 459 (k) accepting a contingent fee for performing an appraisal if in fact the fee is or was
- 460 contingent upon:
- 461 (i) the appraiser reporting a predetermined analysis, opinion, or conclusion;
- 462 (ii) the analysis, opinion, conclusion, or valuation reached; or
- 463 (iii) the consequences resulting from the appraisal assignment;
- 464 (l) committing unprofessional conduct as defined by statute or rule; [or]
- 465 (m) committing unprofessional conduct in accordance with Section 61-7-401; or
- 466 [~~(m)~~] (n) committing other conduct that constitutes dishonest dealing.
- 467 (3) A person previously licensed, certified, or registered under this chapter remains
- 468 responsible for, and is subject to disciplinary action for, an act that the person
- 469 committed, while the person was licensed, certified, or registered, in violation of this
- 470 chapter or an administrative rule in effect at the time that the person committed the act,
- 471 regardless of whether the person is currently licensed, certified, or registered.

Section 4. Section **61-7-101** is enacted to read:

CHAPTER 7. Utah Real Estate Cybercrime Prevention Act

Part 1. General Provisions

61-7-101 (Effective 05/06/26). Definitions.

As used in this chapter:

- (1) "Appraisal practitioner" means an employee of an appraisal management company, as defined in Section 61-2e-102, or an appraiser, as defined in Section 61-2e-102.
- (2) "Commission" means the Real Estate Communications Commission created by Section 61-7-201.
- (3) "Controlling person" means the same as that term is defined in Section 61-2e-102.
- (4)(a) "Covered communication" means an electronic communication which relates to a real estate related transaction that:
 - (i) an appraisal practitioner sends after receiving a request for an appraisal, as defined in Section 61-2g-102, on a real estate transaction;
 - (ii) an escrow practitioner sends after accepting an order for escrow;
 - (iii) a mortgage practitioner sends after receiving an application, as defined in 12 C.F.R. Sec. 1026.2(a)(3);
 - (iv) a real estate practitioner sends after receiving a signed contract for the acquisition of a property; or
 - (v) a title practitioner sends after accepting an order for title insurance.
- (b) "Covered communication" does not include the exchange of data between two systems used by one or more covered individuals via an application programming interface unless such exchange is created with the intent to circumvent the provisions of this chapter.
- (5) "Covered individual" means an individual that is:
 - (a) an appraisal practitioner;
 - (b) an escrow practitioner;
 - (c) a mortgage practitioner;
 - (d) a real estate practitioner; or
 - (e) a title practitioner.
- (6) "Department" means the Department of Commerce.
- (7) "Escrow practitioner" means an individual title insurance producer licensed with the escrow subline of authority licensed in accordance with Title 31A, Chapter 23a.

- (8) "Executive director" means the executive director of the department.
- (9) "Mortgage practitioner" means an employee of a person licensed in accordance with Chapter 2c, Utah Residential Mortgage Practices and Licensing Act, or a mortgage loan originator, as defined in Section 61-2c-102.
- (10) "Real estate practitioner" means an employee of a brokerage, as defined in Section 61-2f-102, a sales agent, as defined in Section 61-2f-102, or a real estate broker, as defined in Section 57-21-2.
- (11) "Real estate related transaction" means the same as that term is defined in Section 61-2g-102.
- (12) "Real estate transaction communication network" means a system the commission authorizes and oversees that a real estate transaction communication utility administers which provides a secure platform for covered communications.
- (13) "Real estate transaction communication utility" means a person the commission authorizes to establish and administer a real estate transaction communication network.
- (14) "Title practitioner" means a title insurance licensee, as defined in Section 31A-41-102, an employee of a title insurance licensee, as defined in Section 31A-2-402, or an employee of a title insurer, as defined in Section 31A-23a-415.
- Section 5. Section **61-7-102** is enacted to read:
- 61-7-102 (Effective 01/01/28). Security of covered communication.**
- (1)(a) Except as described in Subsection (1)(b), a covered individual shall use a real estate transaction communication network to send a covered communication.
- (b) A covered communication that occurs between only covered individuals who work for the same employer is exempt from the requirement described in Subsection (1)(a).
- (2) A licensed person is responsible to ensure an employee of the licensed person complies with Subsection (1).

Section 6. Section **61-7-201** is enacted to read:

Part 2. Real Estate Communication Commission

61-7-201 (Effective 05/06/26). Real Estate Communication Commission.

- (1)(a) There is created within the department the "Real Estate Communication Commission" consisting of five members.
- (b) The executive director shall appoint three individuals to the commission:
- (i) one individual who is a licensed appraiser, as defined in Section 61-2e-102, or serves as an owner of an appraisal management company, as defined in Section 61-2e-102;

- (ii) one individual who is a sales agent, as defined in Section 61-2f-102, a real estate broker, as defined in Section 57-21-2, or is an owner of a brokerage, as defined in Section 61-2f-102; and
- (iii) one individual who is a mortgage loan originator, as defined in Section 61-2c-102, or is an owner of an entity licensed in accordance with Chapter 2c, Utah Residential Mortgage Practices and Licensing Act.
- (c) The commissioner of the Insurance Department shall appoint two individuals to the commission:
- (i) one individual who is a licensed escrow agent, as defined in Section 7-22-101, an individual licensed as a title insurance licensee, as defined in Section 31A-41-102, an owner of a licensed title insurance licensee, as defined in Section 31A-41-102, or title insurer, as defined in Section 31A-23a-415; and
- (ii) one individual who is a member of the general public and who has never been a covered individual.
- (2)(a) Each individual shall be appointed or reappointed to a six-year term ending June 30, except as provided in Subsection (4).
- (b) The executive director and the appointing commissioners shall adjust terms at appointment or reappointment to stagger terms so that approximately half of the members' terms expire every three years.
- (3) The commission shall elect annually one of the commission members as the chair.
- (4) In accordance with Section (1), the appropriate authority shall appoint a replacement for the remainder of the term when a vacancy occurs.
- (5) The commission shall meet at the discretion of the chair.
- (6)(a) Three members constitute a quorum for the transaction of business.
- (b) If a quorum is present when the commission takes a vote, the affirmative vote of a majority of the commission members present is the act of the commission.
- (7) The department shall provide staff support to the commission.
- Section 7. Section **61-7-202** is enacted to read:
- 61-7-202 (Effective 05/06/26). Duties of the commission.**
- The duties, functions, and responsibilities of the commission include:
- (1) reviewing applications for a certificate of authority for a person to operate a real estate communications network as a real estate communications utility;
- (2) selecting one applicant to operate a real estate communications network as a real estate communications utility;

- 573 (3)(a) approving all fee schedules, including changes to existing fee schedules, for use of
574 a real estate communications network; and
- 575 (b) denying a proposed fee schedule or proposed fee schedule change, if the commission
576 determines that:
- 577 (i) the proposed fee schedule or proposed fee schedule change is not reasonably
578 related to the cost to the real estate communications utility to administer the real
579 estate communications network; or
- 580 (ii) the proposed fee schedule or proposed fee schedule change would substantially
581 decrease competition; and
- 582 (4)(a) approving all rules, including changes to existing rules, that a utility publishes
583 governing:
- 584 (i) covered individual network eligibility; and
- 585 (ii) responsibilities and conduct of covered individuals while using the network;
- 586 (b) reviewing rules that a utility publishes;
- 587 (c) denying a proposed rule or proposed rule change that would substantially decrease
588 competition; and
- 589 (d) reviewing any violation of a network rule by a covered individual that a utility refers
590 to the commission.

591 Section 8. Section **61-7-203** is enacted to read:

592 **61-7-203 (Effective 05/06/26). Powers of the commission.**

593 The commission may:

- 594 (1) grant one certificate of authority for a person to operate a real estate communications
595 network as a real estate transaction communication utility;
- 596 (2) revoke the real estate transaction communication utility's certificate of authority in
597 accordance with Section 61-7-303;
- 598 (3) reject a rule or a fee schedule, or a proposed change to an existing rule or fee schedule,
599 of a utility; and
- 600 (4) report to a covered individual's regulatory agency for enforcement action when a
601 covered individual violates Section 61-7-102 or violates a real estate transaction
602 communication utility's rule.

603 Section 9. Section **61-7-301** is enacted to read:

604 **Part 3. Real Estate Communication Network**

605 **61-7-301 (Effective 05/06/26). Certificate of authority.**

- 606 (1) A person shall obtain a certificate of authority from the commission to operate a real

607 estate transaction communication network.

608 (2) To obtain a certificate of authority, a person shall:

609 (a) submit a completed application on a form the commission approves;

610 (b) pay the fee the commission determines in accordance with Section 63J-1-504;

611 (c) meet the standards that the commission makes by rule in accordance with Title 63G,
612 Chapter 3, Utah Administrative Rulemaking Act, related to:

613 (i) the criminal background check described in Section 61-7-303; and

614 (ii) conflicts of interest;

615 (d) meet with the commission, if the commission requests, to determine the person's
616 qualifications for a certificate of authority; and

617 (e) provide any other information the commission requires.

618 (3) An application for a certificate of authority shall include:

619 (a) the name of the entity seeking a certificate of authority;

620 (b) a business address of the entity seeking a certificate of authority;

621 (c) telephone contact information of the entity seeking a certificate of authority;

622 (d) if the entity is domiciled outside of this state, the name and contact information for
623 the entity's agent for service of process in this state;

624 (e) for each individual who owns 10% or more of the entity:

625 (i) the individual's name, address, and contact information;

626 (ii) a statement of whether the individual has had a license or certificate to engage in
627 an act related to a real estate or mortgage transaction refused, denied, canceled,
628 surrendered in lieu of revocation, or revoked in this state or in another state,
629 territory, or the District of Columbia; and

630 (iii)(A) fingerprint cards in a form acceptable to the commission at the time the
631 application is filed; and

632 (B) consent to a criminal background check by the Bureau of Criminal

633 Identification and the Federal Bureau of Investigation regarding the application;

634 (f) the name, address, and contact information for each controlling person;

635 (g)(i) a proposed schedule of fees that upon grant of a certificate of authority;

636 (ii) the proposed schedule of fees shall be deemed approved by the commission,
637 unless the commission expressly rejects the schedule of fees in whole or in part
638 prior to the grant; and

639 (h) any other information the commission requires.

640 Section 10. Section **61-7-302** is enacted to read:

61-7-302 (Effective 05/06/26). Network rules -- Network fees.

- (1) A real estate transaction communication utility shall submit the following to the commission for review and approval:
- (a) all rules, including changes to existing rules, regarding:
- (i) covered individual network eligibility; or
- (ii) responsibilities and conduct of covered individuals while using the network; and
- (b) any rule the commission requests for the commission's review.
- (2)(a) A real estate transaction communication utility shall report to the commission when a covered individual violates a network rule.
- (b) A real estate transaction communication utility may not take action against a covered individual for a violation of a network rule.
- (3)(a) A real estate transaction communication utility may charge a fee to a covered individual for each transaction using the real estate transaction communication network if the real estate transaction communication utility submits to the commission all fee schedules, including changes to existing fee schedules, for approval.
- (b) A real estate transaction communication utility may not impose a fee that has not been approved by the commission.
- (c) A covered individual may charge a consumer the cost of the fee the covered individual incurs for each transaction using the real estate transaction communication network.

Section 11. Section **61-7-303** is enacted to read:

61-7-303 (Effective 05/06/26). Criminal background check -- Changes in ownership or controlling person -- Revocation.

- (1) The commission shall request the Department of Public Safety to complete a Federal Bureau of Investigation criminal background check for an individual described in Subsection 61-7-301(3)(e) or (3)(f) through the national criminal history system or any successor system.
- (2)(a) The entity filing the application in accordance with Subsection 61-7-301(2) shall pay the cost of the criminal background check and the fingerprinting.
- (b) Money paid to the commission by an entity for the cost of a criminal background check is nonlapsing.
- (3)(a) The commission shall reject an application if an individual described in Subsection 61-7-301(3)(e) or (3)(f) fails to accurately disclose a criminal history.

(b) The commission shall immediately and automatically revoke the certificate of authority if a criminal background check discloses that an individual described in Subsection 61-7-301(3)(e) or (3)(f) fails to accurately disclose a criminal history involving:

(i) a violation of state or federal law; or

(ii) a felony conviction on the basis of an allegation of fraud, misrepresentation, or deceit.

(4) Within 30 days after the day on which a change occurs in an individual described in Subsection 61-7-301(3)(e) or (3)(f), the real estate transaction communication utility shall file with the commission:

(a) the individual's name, address, and contact information;

(b) a statement of whether the individual has had a license or certificate to engage in an act related to a real estate or mortgage transaction refused, denied, canceled, surrendered in lieu of revocation, or revoked in this state or in another state, territory, or the District of Columbia; and

(c)(i) fingerprint cards in a form acceptable to the commission at the time the application is filed; and

(ii) consent to a criminal background check by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(5) The commission may revoke the certificate of authority if the real estate transaction communication utility fails to provide and maintain an operating real estate transaction communication network by the later of the full effective date of this chapter, or six months from the grant of a certificate of authority.

Section 12. Section **61-7-304** is enacted to read:

61-7-304 (Effective 05/06/26). Renewal of certificate of authority.

(1) A certificate of authority under this chapter expires three years after the day on which the commission issues the certificate of authority.

(2) To renew a certificate of authority under this chapter, before the day on which the certificate of authority expires, the real estate transaction communication utility shall:

(a) file with the commission a renewal application on a form the commission approves; and

(b) pay to the commission a fee determined in accordance with Section 63J-1-504.

(3) A renewal application shall include the information required under Section 61-7-301, except that for an individual described in Subsection 61-7-301(3)(e) or (3)(f), the real

estate transaction communication utility shall report whether the individual has had:

(a)(i) a conviction of a criminal offense;

(ii) the entry of a plea in abeyance to a criminal offense; or

(iii) the potential resolution of a criminal case by:

(A) a diversion agreement; or

(B) another agreement under which a criminal charge is held in suspense for a period of time;

(b) a filing of personal bankruptcy or bankruptcy of a business;

(c) a license or certificate to engage in an act related to a real estate or mortgage transaction refused, denied, canceled, surrendered in lieu of revocation, or revoked in this state or in another state, territory, or the District of Columbia; or

(d) the entry of a cease and desist order or a temporary or permanent injunction:

(i) against the individual by a court or government agency; and

(ii) on the basis of conduct involving fraud, misrepresentation, or deceit.

Section 13. Section **61-7-401** is enacted to read:

Part 4. Enforcement

61-7-401 (Effective 05/06/26). Unprofessional conduct.

(1) A covered individual commits unprofessional conduct if the covered individual:

(a) violates Section 61-7-102; or

(b) violates a network rule.

(2) Subsection (1) does not apply if the real estate transaction network is nonoperational.

Section 14. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect May 6, 2026.

(2) The actions affecting the following sections take effect on January 1, 2028:

(a) Section 61-2c-301 (Effective 01/01/28);

(b) Section 61-2g-502 (Effective 01/01/28); and

(c) Section 61-7-102 (Effective 01/01/28).