

**Effective 5/12/2015**

**61-2c-202 Licensure procedures.**

- (1) To apply for licensure under this chapter an applicant shall in a manner provided by the division by rule:
  - (a) if the applicant is an entity, submit:
    - (i) through the nationwide database, a licensure statement that:
      - (A) lists any name under which the entity will transact business in this state;
      - (B) lists the address of the principal business location of the entity;
      - (C) identifies each control person for the entity;
      - (D) identifies each jurisdiction in which the entity is registered, licensed, or otherwise regulated in the business of residential mortgage loans;
      - (E) discloses any adverse administrative action taken by an administrative agency against the entity or a control person for the entity; and
      - (F) discloses any history of criminal proceedings that involves a control person of the entity; and
    - (ii) a notarized letter to the division that:
      - (A) is on the entity's letterhead;
      - (B) is signed by the entity's owner, director, or president;
      - (C) authorizes the principal lending manager to do business under the entity's name and under each of the entity's licensed trade names, if any; and
      - (D) includes any information required by the division by rule;
  - (b) if the applicant is an individual:
    - (i) submit a licensure statement that identifies the entity with which the applicant is sponsored;
    - (ii) authorize periodic criminal background checks through the nationwide database, at times provided by rule that the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, accessing:
      - (A) the Utah Bureau of Criminal Identification, if the nationwide database is able to obtain information from the Utah Bureau of Criminal Identification; and
      - (B) the Federal Bureau of Investigation;
    - (iii) submit evidence using a method approved by the division by rule of having successfully completed approved prelicensing education in accordance with Section 61-2c-204.1;
    - (iv) submit evidence using a method approved by the division by rule of having successfully passed any required licensing examination in accordance with Section 61-2c-204.1;
    - (v) submit evidence using a method approved by the division by rule of having successfully registered in the nationwide database, including paying a fee required by the nationwide database; and
    - (vi) authorize the division to obtain independent credit reports:
      - (A) through a consumer reporting agency described in Section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. Sec. 1681a; and
      - (B) at times provided by rule that the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
  - (c) pay to the division:
    - (i) an application fee established by the division in accordance with Section 63J-1-504; and
    - (ii) the reasonable expenses incurred by the division in processing the application for licensure.
- (2)
  - (a) Upon receiving an application, the division, with the concurrence of the commission, shall determine whether the applicant:
    - (i) meets the qualifications for licensure; and

- (ii) complies with this section.
- (b) If the division, with the concurrence of the commission, determines that an applicant meets the qualifications for licensure and complies with this section, the division shall issue the applicant a license.
- (c) If the division, with the concurrence of the commission, determines that the division requires more information to make a determination under Subsection (2)(a), the division may:
  - (i) hold the application pending further information about an applicant's criminal background or history related to adverse administrative action in any jurisdiction; or
  - (ii) issue a conditional license:
    - (A) pending the completion of a criminal background check; and
    - (B) subject to probation, suspension, or revocation if the criminal background check reveals that the applicant did not truthfully or accurately disclose on the licensing application a criminal history or other history related to adverse administrative action.
- (3)
  - (a) The commission may delegate to the division the authority to:
    - (i) review a class or category of application for an initial or renewed license;
    - (ii) determine whether an applicant meets the qualifications for licensure;
    - (iii) conduct a necessary hearing on an application; and
    - (iv) approve or deny a license application without concurrence by the commission.
  - (b) If the commission delegates to the division the authority to approve or deny an application without concurrence by the commission and the division denies an application for licensure, the applicant who is denied licensure may petition the commission for a de novo review of the application.
  - (c) An applicant who is denied licensure under Subsection (3)(b) may seek agency review by the executive director only after the commission reviews the division's denial of the applicant's application.
  - (d) Subject to Subsection (3)(c) and in accordance with Title 63G, Chapter 4, Administrative Procedures Act, an applicant who is denied licensure under this chapter may submit a request for agency review to the executive director within 30 days following the day on which the commission order denying the licensure is issued.

Amended by Chapter 262, 2015 General Session