

Part 2 Registration

61-2e-201 Registration required -- Qualification for registration.

- (1) Unless exempted under Section 61-2e-104, an appraisal management company is required to register under this chapter if the company:
 - (a) contracts with one or more appraisers for the performance of 10 or more appraisals in the state in a calendar year; or
 - (b) oversees a network or panel of more than 15 appraisers certified or licensed in the state.
- (2) Unless registered under this chapter or exempt under Section 61-2e-104, an entity may not with regard to a real estate appraisal activity for real estate located in this state:
 - (a) directly or indirectly engage or attempt to engage in business as an appraisal management company;
 - (b) directly or indirectly engage or attempt to perform an appraisal management service; or
 - (c) advertise or hold itself out as engaging in or conducting business as an appraisal management company.
- (3) To qualify to be registered as an appraisal management company under this chapter:
 - (a) each individual who owns, directly or indirectly, more than 10% of the appraisal management company shall:
 - (i) be of good moral character, as determined by the board; and
 - (ii) not have had a license or certificate to engage in an act related to a real estate or mortgage transaction refused, denied, canceled, or revoked in this state or in another state; and
 - (b) the appraisal management company shall designate a main contact for communication between the appraisal management company and either the board or division who:
 - (i) is a controlling person;
 - (ii) is of good moral character, as determined by the board; and
 - (iii) has not had a license or certificate to engage in an act related to a real estate or mortgage transaction refused, denied, canceled, or revoked in this state or in another state.
- (4) This section applies without regard to whether the entity uses the term:
 - (a) "appraisal management company";
 - (b) "mortgage technology company"; or
 - (c) another name.

Amended by Chapter 166, 2012 General Session

61-2e-202 Initial registration process.

- (1)
 - (a) To register under this chapter as an appraisal management company, an entity shall:
 - (i) file with the division a registration application in a form prescribed by the division;
 - (ii) pay to the division a fee determined in accordance with Section 63J-1-504;
 - (iii) if the entity is not a resident of this state, submit an irrevocable consent for service of process meeting the requirements of Subsection (3); and
 - (iv) have the application for registration approved by the division.
 - (b) The division shall approve an application if the division finds that the entity:
 - (i) complies with this Subsection (1); and
 - (ii) meets the qualifications under Section 61-2e-201.

- (c) The division may, upon compliance with Title 63G, Chapter 4, Administrative Procedures Act, deny the issuance of a registration to an applicant on any ground enumerated in this chapter.
 - (d) If an entity pays a fee or costs to the division with a negotiable instrument or other method that is not honored for payment:
 - (i) the transaction for which the payment is submitted is voidable by the division;
 - (ii) the division may reverse the transaction if payment of the applicable fee or costs is not received in full; and
 - (iii) the entity's registration is automatically suspended:
 - (A) beginning the day on which the payment is due; and
 - (B) ending the day on which payment is made in full.
- (2) A registration application shall include the following:
- (a) the name of the entity seeking registration;
 - (b) a business address of the entity seeking registration;
 - (c) telephone contact information of the entity seeking registration;
 - (d) if the entity is not an entity domiciled in this state, the name and contact information for the entity's agent for service of process in this state;
 - (e) for each individual who owns 10% or more of the entity:
 - (i) the individual's name, address, and contact information;
 - (ii) a statement of whether or not the individual has had a license or certificate to engage in an act related to a real estate or mortgage transaction refused, denied, canceled, or revoked in this state or in another state; and
 - (iii)
 - (A) fingerprint cards in a form acceptable to the division at the time the registration application is filed; and
 - (B) consent to a criminal background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application;
 - (f) the name, address, and contact information for each controlling person;
 - (g) for the controlling person designated as the contact as required by Section 61-2e-201:
 - (i) a statement of whether or not the individual has had a license or certificate to engage in an act related to a real estate or mortgage transaction refused, denied, canceled, or revoked in this state or in another state; and
 - (ii)
 - (A) fingerprint cards in a form acceptable to the division at the time the registration application is filed; and
 - (B) consent to a criminal background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application;
 - (h) provide an explanation required by:
 - (i) Section 61-2e-301, related to adding an individual to an appraiser panel;
 - (ii) Section 61-2e-302, related to the review of the work of an appraiser; and
 - (iii) Section 61-2e-303, related to recordkeeping; and
 - (i) any other information required by the board.
- (3) An irrevocable consent for service of process required to be filed under Subsection (1) shall provide that process may be served on the entity by delivering the process to the director if:
- (a) the service of process is for an action:
 - (i) in a court of this state against an entity; and
 - (ii) arising out of an act governed by this chapter; and
 - (b) a plaintiff cannot, in the exercise of due diligence, obtain personal service upon the entity.

Amended by Chapter 289, 2011 General Session

61-2e-203 Criminal background check -- Conditional registration -- Changes in ownership or controlling person.

- (1) The division shall request the Department of Public Safety to complete a Federal Bureau of Investigation criminal background check for an individual described in Subsection 61-2e-202(2)(e) or (g) through the national criminal history system or any successor system.
- (2)
 - (a) The entity filing the application under Section 61-2e-202 shall pay the cost of the criminal background check and the fingerprinting.
 - (b) Money paid to the division by an entity for the cost of a criminal background check is nonlapsing.
- (3)
 - (a) A registration issued under Section 61-2e-202 is conditional, pending completion of a criminal background check.
 - (b)
 - (i) A registration shall be immediately and automatically revoked if a criminal background check discloses that an individual described in Subsection 61-2e-202(2)(e) or (g) fails to accurately disclose a criminal history involving:
 - (A) the appraisal industry;
 - (B) the appraisal management industry; or
 - (C) a felony conviction on the basis of an allegation of fraud, misrepresentation, or deceit.
 - (ii) If a criminal background check discloses that an individual described in Subsection 61-2e-202(2)(e) or (g) fails to accurately disclose a criminal history other than that described in Subsection (3)(b)(i), the division shall review the application, and in accordance with rules made by the division pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may:
 - (A) place a condition on a registration;
 - (B) place a restriction on a registration;
 - (C) revoke a registration; or
 - (D) refer the application to the board for a decision.
 - (c) An entity whose conditional registration is revoked under Subsection (3)(b)(i) or whose license is conditioned, restricted, or revoked under Subsection (3)(b)(ii) is entitled to a post-revocation hearing conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, to challenge the revocation.
 - (d) The board shall decide whether relief from the revocation of a registration under this Subsection (3) will be granted, except that relief from an automatic revocation under Subsection (3)(b)(i) may be granted only if:
 - (i) the criminal history upon which the revocation is based:
 - (A) did not occur; or
 - (B) is the criminal history of another individual;
 - (ii)
 - (A) the revocation is based on a failure to accurately disclose a criminal history; and
 - (B) the entity has a reasonable good faith belief at the time of application that there is no criminal history to be disclosed; or
 - (iii) the division fails to follow the prescribed procedure for the revocation.
 - (e) The board may delegate to the division the authority to conduct a post-revocation hearing under Subsection (3)(d).

- (f) If a registration is revoked or a revocation under this Subsection (3) is upheld after a post-revocation hearing, the entity may not apply for a new registration until at least 12 months after the day on which the registration is revoked.
- (4)
 - (a) An appraisal management company shall comply with this Subsection (4) if there is a change in:
 - (i) an individual who owns 10% or more of the entity; or
 - (ii) the controlling person designated as the contact as required by Section 61-2e-201.
 - (b) If there is a change in an individual described in Subsection (4)(a), within 30 days of the day on which the change occurs, the appraisal management company shall file with the division:
 - (i) the individual's name, address, and contact information;
 - (ii) a statement of whether or not the individual has had a license or certificate to engage in an act related to a real estate or mortgage transaction refused, denied, canceled, or revoked in this state or in another state; and
 - (iii)
 - (A) fingerprint cards in a form acceptable to the division at the time the registration application is filed; and
 - (B) consent to a criminal background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

Amended by Chapter 289, 2011 General Session
Amended by Chapter 342, 2011 General Session

61-2e-204 Renewal of a registration.

- (1)
 - (a) A registration under this chapter expires two years from the day on which the registration is approved.
 - (b) Notwithstanding Subsection (1)(a), the time period of a registration may be extended or shortened by as much as one year to maintain or change a renewal cycle established by rule by the division.
- (2) To renew a registration under this chapter, before the day on which the registration expires, an appraisal management company shall:
 - (a) file with the division a renewal registration application on a form prescribed by the division;
 - (b) pay to the division a fee determined in accordance with Section 63J-1-504; and
 - (c) file with the division a certificate evidencing that the appraisal management company has secured and will maintain a surety bond with one or more corporate sureties authorized to do business in the state in the amount of at least \$25,000, as the division provides by rule.
- (3)
 - (a) An appraisal management company's registration is immediately and automatically suspended if:
 - (i) the appraisal management company's surety bond lapses or is cancelled during the time period described in Subsection (1); and
 - (ii) the appraisal management company fails to obtain or reinstate a surety bond within 30 days after the day on which the surety bond lapses or is cancelled.
 - (b) To reinstate a registration suspended under Subsection (3)(a), the appraisal management company shall provide evidence to the division that the appraisal management company is in compliance with the surety bond requirement described in this section.

- (4) A renewal registration application shall include substantially similar information to the information required under Section 61-2e-202, except that for an individual described in Subsection 61-2e-202(2)(e) or (g), the entity is required to 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 that transacts the appraisal management services;
 - (c) the suspension, revocation, surrender, cancellation, or denial of a professional license or certification, whether the license or registration is issued by this state or another jurisdiction; 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:
 - (A) conduct or a practice involving the business of appraisal management services; or
 - (B) conduct involving fraud, misrepresentation, or deceit.
- (5) A registration expires if it is not renewed on or before its expiration date, except that for a period of one year after the expiration date, the registration may be reinstated upon compliance with this section, including payment of a renewal fee and a late fee determined by the division and the board.
- (6) Notwithstanding Subsection (5), the division may extend the term of a license that would expire under Subsection (5) except for the extension if:
 - (a)
 - (i) the person complies with the requirements of this section to renew the registration; and
 - (ii) the renewal application remains pending at the time of the extension; or
 - (b) at the time of the extension, there is pending under this chapter a disciplinary action.

Amended by Chapter 384, 2016 General Session