

Part 2 Division and Board

61-2g-201 Duties and powers of division in general.

- (1) The division shall administer and enforce this chapter.
- (2) The division has the following powers and duties:
 - (a) The division shall:
 - (i) receive an application for licensing, certification, or registration;
 - (ii) establish appropriate administrative procedures for the processing of an application for licensure, certification, or registration;
 - (iii) issue a license or certification to a qualified applicant pursuant to this chapter; and
 - (iv) register an individual who applies and qualifies for registration as a trainee under this chapter.
 - (b) The division shall hold public hearings under the direction of the board.
 - (c) The division may:
 - (i) solicit bids and enter into contracts with one or more educational testing services or organizations for the preparation of a bank of questions and answers; and
 - (ii) administer or contract for the administration of licensing and certification examinations as may be required to carry out the division's responsibilities under this chapter.
 - (d) The division shall provide administrative assistance to the board by providing to the board the facilities, equipment, supplies, and personnel that are required to enable the board to carry out the board's responsibilities under this chapter.
 - (e) The division shall assist the board in improving the quality of the continuing education available to a person licensed, certified, or registered under this chapter.
 - (f) The division shall assist the board with respect to the proper interpretation or explanation of the Uniform Standards of Professional Appraisal Practice as required by Section 61-2g-403 when an interpretation or explanation becomes necessary in the enforcement of this chapter.
 - (g) The division may:
 - (i) promote research and conduct studies relating to the profession of real estate appraising; and
 - (ii) sponsor real estate appraisal educational activities.
 - (h) The division shall adopt, with the concurrence of the board, rules for the administration of this chapter pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are not inconsistent with this chapter or the constitution and laws of this state or of the United States.
 - (i) The division shall employ an appropriate staff to investigate allegations that a person required to be licensed, certified, or registered under this chapter fails to comply with this chapter.
 - (j) The division may employ other professional, clerical, and technical staff as may be necessary to properly administer the work of the division under this chapter.
 - (k)
 - (i) Upon request, the division shall make available, either directly or through a third-party, a list of the names and addresses of the persons licensed, registered, or certified by the division under this chapter.
 - (ii) A person who requests a list under this Subsection (2)(k) shall pay the costs incurred by the division to make the list available.
- (3)
 - (a) If the conditions of Subsection (3)(b) are met, the division is immune from any civil action or criminal prosecution for initiating or assisting in a lawful investigation of an act of, or

participating in a disciplinary proceeding concerning a person required to be licensed, certified, or registered pursuant to this chapter.

- (b) This Subsection (3) applies if the division takes the action:
 - (i) without malicious intent; and
 - (ii) in the reasonable belief that the action is taken pursuant to the powers and duties vested in the division under this chapter.

Amended by Chapter 166, 2012 General Session

61-2g-202 Division service fees -- Federal registry fees.

- (1) The division, with the concurrence of the board, shall establish and collect fees in accordance with Section 63J-1-504 for its services under this chapter.
- (2) The division shall collect the annual registry fee established by the Federal Financial Institutions Examinations Council from those certificate holders who seek to perform appraisals in federally related transactions. The division shall transmit the fees to the federal Appraisal Subcommittee at least annually.
- (3) If a person pays a fee or costs to the division with a negotiable instrument or any other payment method that is not honored:
 - (a) the transaction for which the payment is submitted is voidable by the division;
 - (b) the division may reverse the transaction if payment of the applicable fee or costs is not received in full; and
 - (c) the person's license, certification, or registration is automatically suspended:
 - (i) beginning the day on which the payment is due; and
 - (ii) ending the day on which payment is made in full.

Renumbered and Amended by Chapter 289, 2011 General Session

61-2g-203 Division to publish roster of appraisers.

- (1) The division shall prepare and issue at least once each calendar year a roster of appraisers containing the information required by the Federal Financial Institutions Examination Council. The division shall transmit the roster to the Federal Financial Institutions Examinations Council at least annually.
- (2) The division may, upon payment of a fee established by the division in accordance with Section 63J-1-504, issue to a person a verified history of a person:
 - (a) licensed, certified, or registered under this chapter; or
 - (b) previously registered, licensed, or certified under this chapter.

Renumbered and Amended by Chapter 289, 2011 General Session

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

- (1)
 - (a) There is established a Real Estate Appraiser Licensing and Certification Board that consists of five regular members as follows:
 - (i) one state-licensed or state-certified appraiser who may be either a residential or general licensee or certificate holder;
 - (ii) one state-certified residential appraiser;
 - (iii) one state-certified general appraiser;

- (iv) one member who is certified as either a state-certified residential appraiser or a state-certified general appraiser; and
 - (v) one member of the general public.
 - (b) A state-licensed or state-certified appraiser may be appointed as an alternate member of the board.
 - (c) The governor shall appoint all members of the board with the consent of the Senate.
- (2)
- (a) Except as required by Subsection (2)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term beginning on July 1.
 - (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
 - (c) Upon the expiration of a member's term, a member of the board shall continue to hold office until the appointment and qualification of the member's successor.
 - (d) A person may not serve as a member of the board for more than two consecutive terms.
- (3)
- (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
 - (b) The governor may remove a member for cause.
- (4) The public member of the board may not be licensed or certified under this chapter.
- (5) The board shall meet at least quarterly to conduct its business. The division shall give public notice of a board meeting.
- (6) The members of the board shall elect a chair annually from among the members to preside at board meetings.
- (7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (8)
- (a) Three members of the board shall constitute a quorum for the transaction of business.
 - (b) If a quorum of members is unavailable for any meeting, the alternate member of the board, if any, shall serve as a regular member of the board for that meeting if with the presence of the alternate member a quorum is present at the meeting.

Renumbered and Amended by Chapter 289, 2011 General Session

61-2g-205 Duties of board.

- (1)
- (a) The board shall provide technical assistance to the division relating to real estate appraisal standards and real estate appraiser qualifications.
 - (b) The board has the powers and duties listed in this section.
- (2) The board shall:
- (a) determine the experience and education requirements appropriate for a person licensed under this chapter;
 - (b) determine the experience and education requirements appropriate for a person certified under this chapter:

- (i) in compliance with the minimum requirements of Financial Institutions Reform, Recovery, and Enforcement Act of 1989; and
 - (ii) consistent with the intent of this chapter;
 - (c) determine the appraisal related acts that may be performed by:
 - (i) a trainee on the basis of the trainee's education and experience;
 - (ii) clerical staff; and
 - (iii) a person who:
 - (A) does not hold a license or certification; and
 - (B) assists an appraiser licensed or certified under this chapter in providing appraisal services or consultation services;
 - (d) determine the procedures for a trainee to register and to renew a registration with the division; and
 - (e) develop one or more programs to upgrade and improve the experience, education, and examinations as required under this chapter.
- (3) The experience and education requirements determined by the board for a person licensed or certified under this chapter shall meet or exceed the minimum criteria established by the Appraisal Qualification Board.
- (4) The board shall:
- (a) determine the continuing education requirements appropriate for the renewal of a license, certification, or registration issued under this chapter that meet or exceed the minimum criteria established by the Appraisal Qualification Board;
 - (b) develop one or more programs to upgrade and improve continuing education; and
 - (c) recommend to the division one or more available continuing education courses that meet the requirements of this chapter.
- (5)
- (a) The board shall consider the proper interpretation or explanation of the Uniform Standards of Professional Appraisal Practice as required by Section 61-2g-403 when:
 - (i) an interpretation or explanation is necessary in the enforcement of this chapter; and
 - (ii) the Appraisal Standards Board of the Appraisal Foundation has not issued an interpretation or explanation.
 - (b) If the conditions of Subsection (5)(a) are met, the board shall recommend to the division the appropriate interpretation or explanation that the division should adopt as a rule under this chapter.
 - (c) The board may by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and Section 61-2g-403, and with the concurrence of the division, provide for an exemption from a provision of the Uniform Standards of Professional Appraisal Practice for an activity engaged in on behalf of a governmental entity.
- (6)
- (a) The board shall conduct an administrative hearing, not delegated by the board to an administrative law judge, in connection with a disciplinary proceeding under Section 61-2g-504 concerning:
 - (i) a person required to be licensed, certified, or registered under this chapter; and
 - (ii) the person's failure to comply with this chapter and the Uniform Standards of Professional Appraisal Practice as adopted under Section 61-2g-403.
 - (b) The board, with the concurrence of the division, shall issue in an administrative hearing a decision that contains findings of fact and conclusions of law.

- (c) When a determination is made that a person required to be licensed, certified, or registered under this chapter has violated this chapter, the division shall implement disciplinary action determined through concurrence of the board and the division.
- (7) A member of the board is immune from a civil action or criminal prosecution for a disciplinary proceeding concerning a person required to be registered, licensed, certified, or approved as an expert under this chapter if the action is taken without malicious intent and in the reasonable belief that the action taken was taken pursuant to the powers and duties vested in a member of the board under this chapter.
- (8)
 - (a) The board shall require and pass upon proof necessary to determine the honesty, competency, integrity, truthfulness, and general fitness to command the confidence of the community of an applicant for:
 - (i) original licensure, certification, or registration; and
 - (ii) renewal licensure, certification, or registration.
 - (b) The board may delegate to the division the authority to:
 - (i) review a class or category of applications for an original or renewed license, certification, or registration;
 - (ii) determine whether an applicant meets the qualifications for licensure, certification, or registration;
 - (iii) conduct any necessary hearing on an application for an original or renewed license, certification, or registration; and
 - (iv) approve or deny an application for an original or renewed license, certification, or registration.
 - (c) Except as provided in Subsections (8)(d) and (e), and in accordance with Title 63G, Chapter 4, Administrative Procedures Act, an applicant who is denied licensure, certification, or registration under this chapter may submit a request for agency review to the executive director of the division within 30 days after the day on which the board issues the order denying the applicant's application.
 - (d) If the board delegates to the division the authority to approve or deny an application without the concurrence of the board under Subsection (8)(b), and the division denies an application for licensure, certification, or registration, the applicant may, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, petition the board for a de novo review of the application within 30 days after the day on which the division issues the order denying the applicant's application.
 - (e) If the board denies an applicant's application for licensure, certification, or registration after a de novo review under Subsection (8)(d), the applicant may, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, petition the executive director for review of the board's denial within 30 days after the day on which the board issues the order denying the applicant's application.

Amended by Chapter 350, 2014 General Session