

Effective 5/12/2020

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61-2g-502 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
 - (B) if the person fails to pay a fine required by an order, the division may begin a collection process:
 - (I) established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - (II) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.

(2) The following are grounds for disciplinary action under this section:

- (a) procuring or attempting to procure a registration, license, or certification under this chapter:
 - (i) by fraud; or
 - (ii) by making a false statement, submitting false information, or making a material misrepresentation in an application filed with the division;
- (b) paying money or attempting to pay money other than a fee provided for by this chapter to a member or employee of the division to procure a registration, license, or certification under this chapter;
- (c) an act or omission in the practice of real estate appraising that constitutes dishonesty, fraud, or misrepresentation;

- (d) entry of a judgment against a registrant, licensee, or certificate holder on grounds of fraud, misrepresentation, or deceit in the making of an appraisal of real estate;
- (e) regardless of whether the crime is related to the appraisal business, to:
 - (i) be convicted of a felony;
 - (ii) be convicted of any of the following involving fraud, misrepresentation, theft, or dishonesty:
 - (A) a class A misdemeanor;
 - (B) a class B misdemeanor; or
 - (C) a criminal offense comparable to a class A or class B misdemeanor;
 - (iii) plead guilty or nolo contendere to a felony;
 - (iv) plead guilty or nolo contendere to any of the following involving fraud, misrepresentation, theft, or dishonesty:
 - (A) a class A misdemeanor;
 - (B) a class B misdemeanor; or
 - (C) a criminal offense comparable to a class A or class B misdemeanor;
- (v) enter into a plea in abeyance agreement involving a felony; or
- (vi) enter into a plea in abeyance agreement involving any of the following involving fraud, misrepresentation, theft, or dishonesty:
 - (A) a class A misdemeanor;
 - (B) a class B misdemeanor; or
 - (C) a criminal offense comparable to a class A or class B misdemeanor;
- (f) engaging in the business of real estate appraising under an assumed or fictitious name not properly registered in this state;
- (g) paying a finder's fee or a referral fee to a person not licensed or certified under this chapter in connection with an appraisal of real estate or real property in this state;
- (h) making a false or misleading statement in:
 - (i) that portion of a written appraisal report that deals with professional qualifications; or
 - (ii) testimony concerning professional qualifications;
- (i) violating or disregarding:
 - (i) this chapter;
 - (ii) an order of:
 - (A) the board; or
 - (B) the division, in a case when the board delegates to the division the authority to make a decision on behalf of the board; or
 - (iii) a rule issued under this chapter;
- (j) violating the confidential nature of governmental records to which a person registered, licensed, or certified under this chapter gained access through employment or engagement as an appraiser by a governmental agency;
- (k) accepting a contingent fee for performing an appraisal if in fact the fee is or was contingent upon:
 - (i) the appraiser reporting a predetermined analysis, opinion, or conclusion;
 - (ii) the analysis, opinion, conclusion, or valuation reached; or
 - (iii) the consequences resulting from the appraisal assignment;
- (l) unprofessional conduct as defined by statute or rule;
- (m) in the case of a dual licensed title licensee as defined in Section 31A-2-402:
 - (i) providing a title insurance product or service without the approval required by Section 31A-2-405; or
 - (ii) knowingly providing false or misleading information in the statement required by Subsection 31A-2-405(2); or

- (n) other conduct that constitutes dishonest dealing.
- (3) A person previously licensed, certified, or registered under this chapter remains responsible for, and is subject to disciplinary action for, an act that the person committed, while the person was licensed, certified, or registered, in violation of this chapter or an administrative rule in effect at the time that the person committed the act, regardless of whether the person is currently licensed, certified, or registered.