

**CONTINUING EDUCATION FOR REAL
ESTATE PROFESSIONALS**

2004 GENERAL SESSION
STATE OF UTAH

Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This bill modifies provisions related to continuing education requirements for real estate licensees.

Highlighted Provisions:

This bill:

- ▶ includes military service as one reason a person may be exempted from certain continuing education requirements; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

61-2-9, as last amended by Chapter 264, Laws of Utah 2003

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

Section 1. Section **61-2-9** is amended to read:

61-2-9. Examination and license fees -- Background check -- Renewal of licenses -- Education requirements -- Activation of inactive licenses -- Recertification -- Licenses



28 **of firm, partnership, or association -- Miscellaneous fees.**

29 (1) (a) Upon filing an application for a principal broker, associate broker, or sales agent
 30 license examination, the applicant shall pay a nonrefundable fee as determined by the
 31 commission with the concurrence of the division under Section 63-38-3.2 for admission to the
 32 examination.

33 (b) A principal broker, associate broker, or sales agent applicant shall pay a
 34 nonrefundable fee as determined by the commission with the concurrence of the division under
 35 Section 63-38-3.2 for issuance of an initial license or license renewal.

36 (c) Each license issued under this subsection shall be issued for a period of not less
 37 than two years as determined by the division with the concurrence of the commission.

38 (d) (i) Any new sales agent applicant shall submit fingerprint cards in a form
 39 acceptable to the division at the time the license application is filed and shall consent to a
 40 fingerprint background check by the Utah Bureau of Criminal Identification and the Federal
 41 Bureau of Investigation regarding the application.

42 (ii) The division shall request the Department of Public Safety to complete a Federal
 43 Bureau of Investigation criminal background check for each new sales agent applicant through
 44 the national criminal history system (NCIC) or any successor system.

45 (iii) The cost of the background check and the fingerprinting shall be borne by the
 46 applicant.

47 (e) (i) Any new sales agent license issued under this section shall be conditional,
 48 pending completion of the criminal background check. If the criminal background check
 49 discloses the applicant has failed to accurately disclose a criminal history, the license shall be
 50 immediately and automatically revoked.

51 (ii) Any person whose conditional license has been revoked under Subsection (1)(e)(i)
 52 shall be entitled to a post-revocation hearing to challenge the revocation. The hearing shall be
 53 conducted in accordance with Title 63, Chapter 46b, Administrative Procedures Act.

54 (2) (a) (i) A license expires if it is not renewed on or before its expiration date.
 55 [~~Effective January 1, 1992,~~]

56 (ii) As as a condition of renewal, each active licensee shall demonstrate competence:
 57 (A) by viewing an approved real estate education video program and completing a
 58 supplementary workbook[~~;~~]; or [~~complete~~]

59 (B) by competing 12 hours of professional education approved by the division and
60 commission within each two-year renewal period.

61 (iii) The division with the concurrence of the commission shall certify education which
62 may include~~[, but shall not be limited to,]~~ state conventions, home study courses, video
63 courses, and closed circuit television courses.

64 (iv) The commission with concurrence of the division may exempt a licensee from this
65 education requirement for a period not to exceed four years:

66 (A) upon a finding of reasonable cause, including military service; and

67 (B) under conditions established by rule made in accordance with Title 63, Chapter
68 46a, Utah Administrative Rulemaking Act.

69 (b) For a period of 30 days after the expiration date, a license may be reinstated upon
70 payment of a renewal fee and a late fee determined by the commission with the concurrence of
71 the division under Section 63-38-3.2 and upon providing proof acceptable to the division and
72 the commission of the licensee having completed the hours of education or demonstrated
73 competence as required under Subsection (2)(a).

74 (c) After this 30-day period, and until six months after the expiration date, the license
75 may be reinstated by:

76 (i) paying a renewal fee and a late fee determined by the commission with the
77 concurrence of the division under Section 63-38-3.2;

78 (ii) providing to the division proof of satisfactory completion of 12 hours of continuing
79 education, the subject of which shall be determined by the commission by rule; and

80 (iii) providing proof acceptable to the division and the commission of the licensee
81 having completed the hours of education or demonstrated competence as required under
82 Subsection (2)(a).

83 (d) A person who does not renew his license within six months after the expiration date
84 shall be relicensed as prescribed for an original application.

85 (3) As a condition for the activation of an inactive license, a licensee shall supply the
86 division with proof of:

87 (a) successful completion of the respective sales agent or broker licensing examination
88 within six months prior to activation; or

89 (b) the successful completion of the number of hours of continuing education required

90 under Subsection (2)(a) within one year before activation. The commission may establish by
91 rule the nature or type of continuing education required for reactivation.

92 (4) A principal broker license may be granted to a corporation, partnership, or
93 association if the corporation, partnership, or association has affiliated with it an individual
94 who has qualified as a principal broker under the terms of this chapter, and who serves in the
95 capacity of a principal broker. Application for the license shall be made in accordance with the
96 rules adopted by the division with the concurrence of the commission.

97 (5) The division may charge and collect reasonable fees determined by the commission
98 with the concurrence of the division under Section 63-38-3.2 to cover the costs for:

99 (a) issuance of a new or duplicate license;

100 (b) license histories or certifications;

101 (c) certified copies of official documents, orders, and other papers and transcripts;

102 (d) certifying real estate schools, courses, and instructors, the fees for which shall,
103 notwithstanding Section 13-1-2, be deposited in the Real Estate Education, Research, and
104 Recovery Fund; and

105 (e) other duties required by this chapter.

106 (6) If a licensee submits or causes to be submitted a check, draft, or other negotiable
107 instrument to the division for payment of fees, and the check, draft, or other negotiable
108 instrument is dishonored, the transaction for which the payment was submitted is void and will
109 be reversed by the division if payment of the applicable fee is not received in full.

110 (7) The fees under this chapter and the additional license fee for the Real Estate
111 Education, Research, and Recovery Fund under Section 61-2a-4 are in lieu of all other license
112 fees or assessments that might otherwise be imposed or charged by the state or any of its
113 political subdivisions, upon, or as a condition of, the privilege of conducting the business
114 regulated by this chapter, except that a political subdivision within the state may charge a
115 business license fee if the licensee maintains a place of business within the jurisdiction of the
116 political subdivision. Unless otherwise exempt, each licensee under this chapter is subject to
117 all taxes imposed under Title 59, Revenue and Taxation.

Legislative Review Note

as of 2-5-04 8:52 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0357

Continuing Education for Real Estate Professionals

10-Feb-04

11:37 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst