

307 (ii) the following with respect to an entity that has applied for a license or renewal of
 308 licensure under this chapter:

309 (A) a manager;

310 (B) a managing partner;

311 (C) a director;

312 (D) an executive officer; or

313 (E) an individual who performs a function similar to an individual listed in this

314 Subsection (1)(b)(ii); or

315 (c) a person who transacts the business of residential mortgage loans within this state.

316 (2) In conducting investigations, records inspections, and adjudicative proceedings, the
 317 division may:

318 (a) administer an oath or affirmation;

319 (b) issue a subpoena that requires:

320 (i) the attendance and testimony of a witness; or

321 (ii) the production of evidence;

322 (c) take evidence;

323 (d) require the production of a record or information relevant to an investigation; and

324 (e) serve a subpoena by certified mail.

325 (3) (a) A court of competent jurisdiction shall enforce, according to the practice and
 326 procedure of the court, a subpoena issued by the division.

327 (b) The division shall pay any witness fee, travel expense, mileage, or any other fee
 328 required by the service statutes of the state where the witness or evidence is located.

329 (4) A failure to respond to a request by the division in an investigation authorized
 330 under this chapter within 10 days after the day on which the ~~H~~→ [order] request ←~~H~~ is served is
 330a considered as a

331 separate violation of this chapter, including:

332 (a) failing to respond to a subpoena;

333 (b) withholding evidence; or

334 (c) failing to produce a record.

335 (5) The division may inspect and copy a record related to the business of residential
 336 mortgage loans by a licensee under this chapter, regardless of whether the record is maintained
 337 at a business location in Utah, in conducting:

772 may:

773 (i) examine any book or record of an appraisal management company registered or
 774 required to be registered under this chapter and require the appraisal management company to
 775 submit any report, information, or document to the division;

776 [~~(i)~~] (ii) receive and act on a complaint including:

777 (A) taking action designed to obtain voluntary compliance with this chapter, including
 778 the issuance of a cease and desist order if the person against whom the order is issued is given
 779 the right to petition the board for review of the order; or

780 (B) commencing an administrative or judicial proceeding on the division's own
 781 initiative;

782 [~~(ii)~~] (iii) conduct a public or private investigation of an entity required to be registered
 783 under this chapter, regardless of whether the entity is located in Utah;

784 [~~(iii)~~] (iv) employ one or more investigators, clerks, or other employees or agents if:

785 (A) approved by the executive director; and

786 (B) within the budget of the division; and

787 [~~(iv)~~] (v) issue a subpoena that requires:

788 (A) the attendance and testimony of a witness; or

789 (B) the production of evidence.

790 (b) (i) A court of competent jurisdiction shall enforce, according to the practice and
 791 procedure of the court, a subpoena issued by the division.

792 (ii) The division shall pay any witness fee, travel expense, mileage, or any other fee
 793 required by the service statutes of the state where the witness or evidence is located.

794 (c) A failure to respond to a request by the division in an investigation under this
 795 chapter within 10 days after the day on which the ~~H~~→ [order] request ←~~H~~ is served is considered
 795a to be a separate

796 violation of this chapter, including:

797 (i) failing to respond to a subpoena;

798 (ii) withholding evidence; or

799 (iii) failing to produce a document or record.

800 (2) (a) If a person is found to have violated this chapter or a rule made under this
 801 chapter, the person shall pay the costs incurred by the division to copy a book, paper, contract,
 802 document, or record required under this chapter, including the costs incurred to copy an

834 (v) a regular salaried employee of a condominium homeowners' association who
 835 manages real estate subject to the declaration of condominium that established the
 836 condominium homeowners' association, except that the employee may only manage real estate
 837 for one condominium homeowners' association; and

838 (vi) a regular salaried employee of a licensed property management company or real
 839 estate brokerage who performs support services, as prescribed by rule, for the property
 840 management company or real estate brokerage.

841 (b) Subsection (1)(a) does not exempt from licensing:

842 (i) an employee engaged in the sale of real estate regulated under:

843 (A) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act; or

844 (B) Title 57, Chapter 19, Timeshare and Camp Resort Act;

845 (ii) an employee engaged in the sale of cooperative interests regulated under Title 57,
 846 Chapter 23, Real Estate Cooperative Marketing Act; or

847 (iii) an individual whose interest as an owner or lessor is obtained by that individual or
 848 transferred to that individual for the purpose of evading the application of this chapter, and not
 849 for another legitimate business reason.

850 (2) A license under this chapter is not required for:

851 (a) an isolated transaction or service by an individual holding an unsolicited, duly
 852 executed power of attorney from a property owner;

853 ~~[(b) services rendered by an attorney admitted to practice law in this state in
 854 performing the attorney's duties as an attorney;]~~

855 (b) subject to Subsection [61-2f-401\(5\)](#), ~~§~~→ **[an attorney admitted to practice law in this**
 856 **state, if, while in the course of the attorney's ordinary practice in the legal field, the attorney**
 857 **provides ancillary real-estate-related services that would ordinarily require a license under this**
 858 **chapter;] services rendered by an attorney admitted to practice law in this state in performing**
 858a **the attorney's duties as an attorney; ←§**

859 (c) a receiver, trustee in bankruptcy, administrator, executor, or an individual acting
 860 under order of a court;

861 (d) a trustee or employee of a trustee under a deed of trust or a will;

862 (e) a public utility, officer of a public utility, or regular salaried employee of a public
 863 utility, unless performance of an act described in Subsection [61-2f-102](#)~~[(18)]~~[\(20\)](#) is in

864 connection with the sale, purchase, lease, or other disposition of real estate or investment in

989 issued by this state or another jurisdiction;

990 (20) failing to respond to a request by the division in an investigation authorized under

991 this chapter within 10 days after the day on which the ~~H~~→ [order] request ←~~H~~ is served,

991a including:

992 (a) failing to respond to a subpoena;

993 (b) withholding evidence; or

994 (c) failing to produce documents or records;

995 (21) in the case of a dual licensed title licensee as defined in Section 31A-2-402:

996 (a) providing a title insurance product or service without the approval required by

997 Section 31A-2-405; or

998 (b) knowingly providing false or misleading information in the statement required by

999 Subsection 31A-2-405(2);

1000 (22) violating an independent contractor agreement between a principal broker and a
1001 sales agent or associate broker as evidenced by a final judgment of a court;

1002 (23) (a) engaging in an act of loan modification assistance that requires licensure as a
1003 mortgage officer under Chapter 2c, Utah Residential Mortgage Practices and Licensing Act,
1004 without being licensed under that chapter;

1005 (b) engaging in an act of foreclosure rescue without entering into a written agreement
1006 specifying what one or more acts of foreclosure rescue will be completed;

1007 (c) inducing a person who is at risk of foreclosure to hire the licensee to engage in an
1008 act of foreclosure rescue by:

1009 (i) suggesting to the person that the licensee has a special relationship with the person's
1010 lender or loan servicer; or

1011 (ii) falsely representing or advertising that the licensee is acting on behalf of:

1012 (A) a government agency;

1013 (B) the person's lender or loan servicer; or

1014 (C) a nonprofit or charitable institution; or

1015 (d) recommending or participating in a foreclosure rescue that requires a person to:

1016 (i) transfer title to real estate to the licensee or to a third-party with whom the licensee
1017 has a business relationship or financial interest;

1018 (ii) make a mortgage payment to a person other than the person's loan servicer; or

1019 (iii) refrain from contacting the person's:

1175 certification, or registration to an applicant.

1176 Section 18. Section **61-2g-501** is amended to read:

1177 **61-2g-501. Enforcement -- Investigation -- Orders -- Hearings.**

1178 (1) (a) The division may conduct a public or private investigation of the actions of:

1179 (i) a person registered, licensed, or certified under this chapter;

1180 (ii) an applicant for registration, licensure, or certification;

1181 (iii) an applicant for renewal of registration, licensure, or certification; or

1182 (iv) a person required to be registered, licensed, or certified under this chapter.

1183 (b) The division may initiate an agency action against a person described in Subsection

1184 (1)(a) in accordance with Title 63G, Chapter 4, Administrative Procedures Act, to:

1185 (i) impose disciplinary action;

1186 (ii) deny issuance to an applicant of:

1187 (A) an original registration, license, or certification; or

1188 (B) a renewal of a registration, license, or certification; or

1189 (iii) issue a cease and desist order as provided in Subsection (3).

1190 (2) (a) The division may:

1191 (i) administer an oath or affirmation;

1192 (ii) issue a subpoena that requires:

1193 (A) the attendance and testimony of a witness; or

1194 (B) the production of evidence;

1195 (iii) take evidence; and

1196 (iv) require the production of a book, paper, contract, record, document, information,

1197 or evidence relevant to the investigation described in Subsection (1).

1198 (b) The division may serve a subpoena by certified mail.

1199 (c) A failure to respond to a request by the division in an investigation authorized

1200 under this chapter within 10 days after the day on which the ~~H~~→ [order] request ←~~H~~ is served is

1200a considered to be

1201 a separate violation of this chapter, including:

1202 (i) failing to respond to a subpoena as a witness;

1203 (ii) withholding evidence; or

1204 (iii) failing to produce a book, paper, contract, document, information, or record.

1205 (d) (i) A court of competent jurisdiction shall enforce, according to the practice and