

Senator Todd Weiler proposes the following substitute bill:

LICENSING STANDARDS FOR MILITARY SPOUSES

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: Brian M. Greene

LONG TITLE

General Description:

This bill modifies occupational and professional licensing requirements for certain individuals serving in the military and for certain spouses of individuals serving in the military.

Highlighted Provisions:

This bill:

- ▶ provides certain exemptions from occupational and professional licensure in a variety of occupations and professions, including for:
 - an individual serving in the military if the individual has a valid license in another jurisdiction; and
 - a spouse of an individual serving in the military if the spouse has a valid license in another jurisdiction.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



26 **61-2f-202**, as last amended by Laws of Utah 2017, Chapter 182

27 ENACTS:

28 **4-1-111**, Utah Code Annotated 1953

29 **13-1-12**, Utah Code Annotated 1953

30 **31A-1-111**, Utah Code Annotated 1953

31 **53-9-122**, Utah Code Annotated 1953

32 **53-11-125**, Utah Code Annotated 1953

33 **53E-6-204**, Utah Code Annotated 1953

34 **61-1-32**, Utah Code Annotated 1953

35

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

37 Section 1. Section **4-1-111** is enacted to read:

38 **4-1-111. Exemptions from licensure.**

39 Except as otherwise provided by statute or rule, the following individuals may engage
40 in the practice of an occupation or profession regulated by this title, subject to the stated
41 circumstances and limitations, without being licensed under this title:

42 (1) an individual licensed under the laws of this state, other than under this title, to
43 practice or engage in an occupation or profession, while engaged in the lawful, professional,
44 and competent practice of that occupation or profession;

45 (2) an individual serving in the armed forces of the United States, the United States
46 Public Health Service, the United States Department of Veterans Affairs, or any other federal
47 agency while engaged in activities regulated under this title as a part of employment with that
48 federal agency if the individual holds a valid license to practice the regulated occupation or
49 profession issued by any other state or jurisdiction recognized by the department; and

50 (3) the spouse of an individual serving in the armed forces of the United States while
51 the individual is stationed within this state, if:

52 (a) the spouse holds a valid license to practice the regulated occupation or profession
53 issued by any other state or jurisdiction recognized by the department; and

54 (b) the license is current and the spouse is in good standing in the state or jurisdiction
55 of licensure.

56 Section 2. Section **13-1-12** is enacted to read:

57 **13-1-12. Exemptions from licensure.**

58 Except as otherwise provided by statute or rule, the following individuals may engage
59 in the practice of an occupation or profession regulated by this title, subject to the stated
60 circumstances and limitations, without being licensed under this title:

61 (1) an individual licensed under the laws of this state, other than under this title, to
62 practice or engage in an occupation or profession, while engaged in the lawful, professional,
63 and competent practice of that occupation or profession;

64 (2) an individual serving in the armed forces of the United States, the United States
65 Public Health Service, the United States Department of Veterans Affairs, or any other federal
66 agency while engaged in activities regulated under this title as a part of employment with that
67 federal agency if the individual holds a valid license to practice the regulated occupation or
68 profession issued by any other state or jurisdiction recognized by the department; and

69 (3) the spouse of an individual serving in the armed forces of the United States while
70 the individual is stationed within this state, if:

71 (a) the spouse holds a valid license to practice the regulated occupation or profession
72 issued by any other state or jurisdiction recognized by the department; and

73 (b) the license is current and the spouse is in good standing in the state or jurisdiction
74 of licensure.

75 Section 3. Section **31A-1-111** is enacted to read:

76 **31A-1-111. Exemptions from licensure.**

77 Except as otherwise provided by statute or rule, the following individuals may engage
78 in the practice of an occupation or profession regulated by this title, subject to the stated
79 circumstances and limitations, without being licensed under this title:

80 (1) an individual licensed under the laws of this state, other than under this title, to
81 practice or engage in an occupation or profession, while engaged in the lawful, professional,
82 and competent practice of that occupation or profession;

83 (2) an individual serving in the armed forces of the United States, the United States
84 Public Health Service, the United States Department of Veterans Affairs, or any other federal
85 agency while engaged in activities regulated under this title as a part of employment with that
86 federal agency if the individual holds a valid license to practice the regulated occupation or
87 profession issued by any other state or jurisdiction recognized by the department; and

88 (3) the spouse of an individual serving in the armed forces of the United States while
89 the individual is stationed within this state, if:

90 (a) the spouse holds a valid license to practice the regulated occupation or profession
91 issued by any other state or jurisdiction recognized by the department; and

92 (b) the license is current and the spouse is in good standing in the state or jurisdiction
93 of licensure.

94 Section 4. Section **53-9-122** is enacted to read:

95 **53-9-122. Exemptions from licensure.**

96 Except as otherwise provided by statute or rule, the following individuals may engage
97 in the practice of an occupation or profession regulated by this title, subject to the stated
98 circumstances and limitations, without being licensed under this title:

99 (1) an individual licensed under the laws of this state, other than under this title, to
100 practice or engage in an occupation or profession, while engaged in the lawful, professional,
101 and competent practice of that occupation or profession;

102 (2) an individual serving in the armed forces of the United States, the United States
103 Public Health Service, the United States Department of Veterans Affairs, or any other federal
104 agency while engaged in activities regulated under this title as a part of employment with that
105 federal agency if the individual holds a valid license to practice the regulated occupation or
106 profession issued by any other state or jurisdiction recognized by the department; and

107 (3) the spouse of an individual serving in the armed forces of the United States while
108 the individual is stationed within this state, if:

109 (a) the spouse holds a valid license to practice the regulated occupation or profession
110 issued by any other state or jurisdiction recognized by the department; and

111 (b) the license is current and the spouse is in good standing in the state or jurisdiction
112 of licensure.

113 Section 5. Section **53-11-125** is enacted to read:

114 **53-11-125. Exemptions from licensure.**

115 Except as otherwise provided by statute or rule, the following individuals may engage
116 in the practice of a private investigator regulated by this chapter, subject to the stated
117 circumstances and limitations, without being licensed under this chapter:

118 (1) an individual serving in the armed forces of the United States, the United States

119 Public Health Service, the United States Department of Veterans Affairs, or any other federal
120 agency while engaged in activities regulated under this chapter as a part of employment with
121 that federal agency if the individual holds a valid private investigator license issued by any
122 other state or jurisdiction recognized by the department; and

123 (2) the spouse of an individual serving in the armed forces of the United States while
124 the individual is stationed within this state, if:

125 (a) the spouse holds a valid private investigator license issued by any other state or
126 jurisdiction recognized by the department; and

127 (b) the license is current and the spouse is in good standing in the state or jurisdiction
128 of licensure.

129 Section 6. Section **53E-6-204** is enacted to read:

130 **53E-6-204. Exemptions from licensure.**

131 Except as otherwise provided by statute or rule, a spouse of an individual serving in the
132 armed forces of the United States while the individual is stationed within this state may work
133 as an educator without being licensed under this title if:

134 (1) the spouse holds a valid educator license issued by any other state or jurisdiction
135 recognized by the board; and

136 (2) the license is current and the spouse is in good standing in the state or jurisdiction
137 of licensure.

138 Section 7. Section **61-1-32** is enacted to read:

139 **61-1-32. Exemptions from licensure.**

140 Except as otherwise provided by statute or rule, the following individuals may engage
141 in the practice of an occupation or profession regulated by this chapter, subject to the stated
142 circumstances and limitations, without being licensed under this chapter:

143 (1) an individual licensed under the laws of this state, other than under this chapter, to
144 practice or engage in an occupation or profession, while engaged in the lawful, professional,
145 and competent practice of that occupation or profession;

146 (2) an individual serving in the armed forces of the United States, the United States
147 Public Health Service, the United States Department of Veterans Affairs, or any other federal
148 agency while engaged in activities regulated under this title as a part of employment with that
149 federal agency if the individual holds a valid license to practice the regulated occupation or

150 profession issued by any other state or jurisdiction recognized by the department; and
151 (3) the spouse of an individual serving in the armed forces of the United States while
152 the individual is stationed within this state, if:
153 (a) the spouse holds a valid license to practice the regulated occupation or profession
154 issued by any other state or jurisdiction recognized by the department; and
155 (b) the license is current and the spouse is in good standing in the state or jurisdiction
156 of licensure.

157 Section 8. Section **61-2f-202** is amended to read:

158 **61-2f-202. Exempt persons and transactions.**

159 (1) (a) Except as provided in Subsection (1)(b), a license under this chapter is not
160 required for:

- 161 (i) a person who as owner or lessor performs an act described in Subsection
162 **61-2f-102**(18) with reference to real estate owned or leased by that person;
 - 163 (ii) a regular salaried employee of the owner or lessor of real estate who, with reference
164 to nonresidential real estate owned or leased by the employer, performs an act described in
165 Subsection **61-2f-102**(18)(b) or (c);
 - 166 (iii) a regular salaried employee of the owner of real estate who performs property
167 management services with reference to real estate owned by the employer, except that the
168 employee may only manage real estate for one employer;
 - 169 (iv) an individual who performs property management services for the apartments at
170 which that individual resides in exchange for free or reduced rent on that individual's
171 apartment;
 - 172 (v) a regular salaried employee of a condominium homeowners' association who
173 manages real estate subject to the declaration of condominium that established the
174 condominium homeowners' association, except that the employee may only manage real estate
175 for one condominium homeowners' association; and
 - 176 (vi) a regular salaried employee of a licensed property management company or real
177 estate brokerage who performs support services, as prescribed by rule, for the property
178 management company or real estate brokerage.
- 179 (b) Subsection (1)(a) does not exempt from licensing:
- 180 (i) an employee engaged in the sale of real estate regulated under:

- 181 (A) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act; or
182 (B) Title 57, Chapter 19, Timeshare and Camp Resort Act;
183 (ii) an employee engaged in the sale of cooperative interests regulated under Title 57,
184 Chapter 23, Real Estate Cooperative Marketing Act; or
185 (iii) an individual whose interest as an owner or lessor is obtained by that individual or
186 transferred to that individual for the purpose of evading the application of this chapter, and not
187 for another legitimate business reason.
- 188 (2) A license under this chapter is not required for:
189 (a) an isolated transaction or service by an individual holding an unsolicited, duly
190 executed power of attorney from a property owner;
191 (b) services rendered by an attorney admitted to practice law in this state in performing
192 the attorney's duties as an attorney;
193 (c) a receiver, trustee in bankruptcy, administrator, executor, or an individual acting
194 under order of a court;
195 (d) a trustee or employee of a trustee under a deed of trust or a will;
196 (e) a public utility, officer of a public utility, or regular salaried employee of a public
197 utility, unless performance of an act described in Subsection [61-2f-102](#)(18) is in connection
198 with the sale, purchase, lease, or other disposition of real estate or investment in real estate
199 unrelated to the principal business activity of that public utility;
200 (f) a regular salaried employee or authorized agent working under the oversight of the
201 Department of Transportation when performing an act on behalf of the Department of
202 Transportation in connection with one or more of the following:
203 (i) the acquisition of real estate pursuant to Section [72-5-103](#);
204 (ii) the disposal of real estate pursuant to Section [72-5-111](#);
205 (iii) services that constitute property management; or
206 (iv) the leasing of real estate; and
207 (g) a regular salaried employee of a county, city, or town when performing an act on
208 behalf of the county, city, or town:
209 (i) in accordance with:
210 (A) if a regular salaried employee of a city or town:
211 (I) Title 10, Utah Municipal Code; or

212 (II) Title 11, Cities, Counties, and Local Taxing Units; and
213 (B) if a regular salaried employee of a county:
214 (I) Title 11, Cities, Counties, and Local Taxing Units; and
215 (II) Title 17, Counties; and
216 (ii) in connection with one or more of the following:
217 (A) the acquisition of real estate, including by eminent domain;
218 (B) the disposal of real estate;
219 (C) services that constitute property management; or
220 (D) the leasing of real estate.
221 (3) A license under this chapter is not required for an individual registered to act as a
222 broker-dealer, agent, or investment adviser under the Utah and federal securities laws in the
223 sale or the offer for sale of real estate if:
224 (a) (i) the real estate is a necessary element of a "security" as that term is defined by the
225 Securities Act of 1933 and the Securities Exchange Act of 1934; and
226 (ii) the security is registered for sale in accordance with:
227 (A) the Securities Act of 1933; or
228 (B) Title 61, Chapter 1, Utah Uniform Securities Act; or
229 (b) (i) it is a transaction in a security for which a Form D, described in 17 C.F.R. Sec.
230 239.500, has been filed with the Securities and Exchange Commission pursuant to Regulation
231 D, Rule 506, 17 C.F.R. Sec. 230.506; and
232 (ii) the selling agent and the purchaser are not residents of this state.
233 (4) Except as otherwise provided by statute or rule, the following individuals may
234 engage in the practice of an occupation or profession regulated by this chapter, subject to the
235 stated circumstances and limitations, without being licensed under this chapter:
236 (a) an individual licensed under the laws of this state, other than under this chapter, to
237 practice or engage in an occupation or profession, while engaged in the lawful, professional,
238 and competent practice of that occupation or profession;
239 (b) an individual serving in the armed forces of the United States, the United States
240 Public Health Service, the United States Department of Veterans Affairs, or any other federal
241 agency while engaged in activities regulated under this title as a part of employment with that
242 federal agency if the individual holds a valid license to practice the regulated occupation or

243 profession issued by any other state or jurisdiction recognized by the department; and
244 (c) the spouse of an individual serving in the armed forces of the United States while
245 the individual is stationed within this state, if:

246 (i) the spouse holds a valid license to practice the regulated occupation or profession
247 issued by any other state or jurisdiction recognized by the department; and
248 (ii) the license is current and the spouse is in good standing in the state or jurisdiction
249 of licensure.

250 [~~4~~] (5) As used in this section, "owner" does not include:

251 (a) a person who holds an option to purchase real property;

252 (b) a mortgagee;

253 (c) a beneficiary under a deed of trust;

254 (d) a trustee under a deed of trust; or

255 (e) a person who owns or holds a claim that encumbers any real property or an
256 improvement to the real property.

257 [~~5~~] (6) The commission, with the concurrence of the division, may provide, by rule
258 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
259 circumstances under which a person or transaction qualifies for an exemption that is described
260 in this section.