

Senator Todd Weiler proposes the following substitute bill:

1                   **LICENSING STANDARDS FOR MILITARY SPOUSES**

2                   2018 GENERAL SESSION

3                   STATE OF UTAH

4                   **Chief Sponsor: Todd Weiler**

5                   House Sponsor: Brian M. Greene

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**LONG TITLE**

7                   **General Description:**

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

11                   **Highlighted Provisions:**

12                   This bill:

13                   ▶ provides certain exemptions from occupational and professional licensure in a  
14 variety of occupations and professions, including for:

15                   • an individual serving in the military if the individual has a valid license in  
16 another jurisdiction; and

17                   • a spouse of an individual serving in the military if the spouse has a valid license  
18 in another jurisdiction.

19                   **Money Appropriated in this Bill:**

20                   None

21                   **Other Special Clauses:**

22                   None

23                   **Utah Code Sections Affected:**

24                   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

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

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

37        **4-1-111. Exemptions from licensure.**

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

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

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

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

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

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

55        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  
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.