

SB0227S02 compared with SB0227S01

~~text~~ shows text that was in SB0227S01 but was deleted in SB0227S02.

Inserted text shows text that was not in SB0227S01 but was inserted into SB0227S02.

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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: _____

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.

SB0227S02 compared with SB0227S01

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

[31A-23a-104, as last amended by Laws of Utah 2014, Chapters 290 and 300](#)

[31A-26-202, as last amended by Laws of Utah 2008, Chapter 382](#)

[61-2f-202, as last amended by Laws of Utah 2017, Chapter 182](#)

ENACTS:

[4-1-111, Utah Code Annotated 1953](#)

[13-1-12, Utah Code Annotated 1953](#)

~~[31A-1-111, Utah Code Annotated 1953](#)~~

[53-9-122, Utah Code Annotated 1953](#)

[53-11-125, Utah Code Annotated 1953](#)

[53E-6-204, Utah Code Annotated 1953](#)

[61-1-32, Utah Code Annotated 1953](#)

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

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

4-1-111. Exemptions from licensure.

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

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

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

SB0227S02 compared with SB0227S01

profession issued by any other state or jurisdiction recognized by the department; and

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

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

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

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

13-1-12. Exemptions from licensure.

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

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

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

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

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

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

Section 3. Section ~~{31A-1-111}~~ **31A-23a-104** is ~~{enacted to read:~~

~~31A-1-111. Exemptions from licensure:~~

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

SB0227S02 compared with SB0227S01

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

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

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

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

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

amended to read:

31A-23a-104. Application for individual license -- Application for agency license.

(1) This section applies to an initial or renewal license as a:

- (a) producer;
- (b) surplus lines producer;
- (c) limited line producer;
- (d) consultant;
- (e) managing general agent; or
- (f) reinsurance intermediary.

(2) (a) Subject to Subsection (2)(b), to obtain or renew an individual license, an individual shall:

(i) file an application for an initial or renewal individual license with the commissioner on forms and in a manner the commissioner prescribes; and

(ii) except as provided in Subsection (6), pay a license fee that is not refunded if the application:

- (A) is denied; or
- (B) is incomplete when filed and is never completed by the applicant.

SB0227S02 compared with SB0227S01

(b) An application described in this Subsection (2) shall provide:

(i) information about the applicant's identity;

(ii) the applicant's Social Security number;

(iii) the applicant's personal history, experience, education, and business record;

(iv) whether the applicant is 18 years of age or older;

(v) whether the applicant has committed an act that is a ground for denial, suspension, or revocation as set forth in Section 31A-23a-105 or 31A-23a-111;

(vi) if the application is for a resident individual producer license, certification that the applicant complies with Section 31A-23a-203.5; and

(vii) any other information the commissioner reasonably requires.

(3) The commissioner may require a document reasonably necessary to verify the information contained in an application filed under this section.

(4) An applicant's Social Security number contained in an application filed under this section is a private record under Section 63G-2-302.

(5) (a) Subject to Subsection (5)(b), to obtain or renew an agency license, a person shall:

(i) file an application for an initial or renewal agency license with the commissioner on forms and in a manner the commissioner prescribes; and

(ii) pay a license fee that is not refunded if the application:

(A) is denied; or

(B) is incomplete when filed and is never completed by the applicant.

(b) An application described in Subsection (5)(a) shall provide:

(i) information about the applicant's identity;

(ii) the applicant's federal employer identification number;

(iii) the designated responsible licensed individual;

(iv) the identity of the owners, partners, officers, and directors;

(v) whether the applicant has committed an act that is a ground for denial, suspension, or revocation as set forth in Section 31A-23a-105 or 31A-23a-111; and

(vi) any other information the commissioner reasonably requires.

(6) The following individuals are exempt from paying a license fee:

(a) an individual serving in the armed forces of the United States while the individual

SB0227S02 compared with SB0227S01

is stationed within this state, if:

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

(ii) the license is current and the individual is in good standing in the state or jurisdiction of licensure; and

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

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

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

Section 4. Section 31A-26-202 is amended to read:

31A-26-202. Application for license.

(1) (a) The application for a license as an independent adjuster or public adjuster shall be:

(i) made to the commissioner on forms and in a manner the commissioner prescribes; and

(ii) except as provided in Subsection (4), accompanied by the applicable fee, which is not refunded if the application is denied.

(b) The application shall provide:

(i) information about the applicant's identity, including:

(A) the applicant's:

(I) Social Security number; or

(II) federal employer identification number;

(B) the applicant's personal history, experience, education, and business record;

(C) if the applicant is a natural person, whether the applicant is 18 years of age or older; and

(D) whether the applicant has committed an act that is a ground for denial, suspension, or revocation as set forth in Section 31A-25-208; and

(ii) any other information as the commissioner reasonably requires.

(2) The commissioner may require documents reasonably necessary to verify the

SB0227S02 compared with SB0227S01

information contained in the application.

(3) An applicant's Social Security number contained in an application filed under this section is a private record under Section 63G-2-302.

(4) The following individuals are exempt from paying a license fee:

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

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

(ii) the license is current and the individual is in good standing in the state or jurisdiction of licensure; and

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

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

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

Section ~~{4}~~5. Section **53-9-122** is enacted to read:

53-9-122. Exemptions from licensure.

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

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

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

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

SB0227S02 compared with SB0227S01

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

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

Section ~~5~~6. Section **53-11-125** is enacted to read:

53-11-125. Exemptions from licensure.

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

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

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

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

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

Section ~~6~~7. Section **53E-6-204** is enacted to read:

53E-6-204. Exemptions from licensure.

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

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

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

Section ~~7~~8. Section **61-1-32** is enacted to read:

61-1-32. Exemptions from licensure.

SB0227S02 compared with SB0227S01

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

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

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

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

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

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

Section ~~8~~9. Section **61-2f-202** is amended to read:

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

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

(i) a person who as owner or lessor performs an act described in Subsection 61-2f-102(18) with reference to real estate owned or leased by that person;

(ii) a regular salaried employee of the owner or lessor of real estate who, with reference to nonresidential real estate owned or leased by the employer, performs an act described in Subsection 61-2f-102(18)(b) or (c);

(iii) a regular salaried employee of the owner of real estate who performs property management services with reference to real estate owned by the employer, except that the employee may only manage real estate for one employer;

(iv) an individual who performs property management services for the apartments at which that individual resides in exchange for free or reduced rent on that individual's

SB0227S02 compared with SB0227S01

apartment;

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) a public utility, officer of a public utility, or regular salaried employee of a public utility, unless performance of an act described in Subsection 61-2f-102(18) is in connection with the sale, purchase, lease, or other disposition of real estate or investment in real estate unrelated to the principal business activity of that public utility;

(f) a regular salaried employee or authorized agent working under the oversight of the Department of Transportation when performing an act on behalf of the Department of

SB0227S02 compared with SB0227S01

Transportation in connection with one or more of the following:

- (i) the acquisition of real estate pursuant to Section 72-5-103;
- (ii) the disposal of real estate pursuant to Section 72-5-111;
- (iii) services that constitute property management; or
- (iv) the leasing of real estate; and
- (g) a regular salaried employee of a county, city, or town when performing an act on

behalf of the county, city, or town:

- (i) in accordance with:
 - (A) if a regular salaried employee of a city or town:
 - (I) Title 10, Utah Municipal Code; or
 - (II) Title 11, Cities, Counties, and Local Taxing Units; and
 - (B) if a regular salaried employee of a county:
 - (I) Title 11, Cities, Counties, and Local Taxing Units; and
 - (II) Title 17, Counties; and
- (ii) in connection with one or more of the following:
 - (A) the acquisition of real estate, including by eminent domain;
 - (B) the disposal of real estate;
 - (C) services that constitute property management; or
 - (D) the leasing of real estate.

(3) A license under this chapter is not required for an individual registered to act as a broker-dealer, agent, or investment adviser under the Utah and federal securities laws in the sale or the offer for sale of real estate if:

(a) (i) the real estate is a necessary element of a "security" as that term is defined by the Securities Act of 1933 and the Securities Exchange Act of 1934; and

- (ii) the security is registered for sale in accordance with:
 - (A) the Securities Act of 1933; or
 - (B) Title 61, Chapter 1, Utah Uniform Securities Act; or

(b) (i) it is a transaction in a security for which a Form D, described in 17 C.F.R. Sec. 239.500, has been filed with the Securities and Exchange Commission pursuant to Regulation D, Rule 506, 17 C.F.R. Sec. 230.506; and

- (ii) the selling agent and the purchaser are not residents of this state.

SB0227S02 compared with SB0227S01

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

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

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

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

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

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

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

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

(b) a mortgagee;

(c) a beneficiary under a deed of trust;

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

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

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