DIVISION OF REAL ESTATE AMENDMENTS

2021 GENERAL SESSION
STATE OF UTAH

Chief Sponsor: Calvin R. Musselman
Senate Sponsor: Kirk A. Cullimore

LONG TITLE
General Description:
This bill amends provisions of Title 61, Securities Division - Real Estate Division, regarding real estate.

Highlighted Provisions:
This bill:
- removes an unused definition;
- permits the Division of Real Estate to suspend or revoke the registration of an appraisal management company registered in the state if the company fails to pay certain fees;
- permits disciplinary action, under certain conditions, against an entity for a violation of statute made while the person was registered, or should have been registered, as an appraisal management company;
- permits the Division of Real Estate, under certain conditions, to enter into a reciprocal licensing agreement with another jurisdiction for a principal broker, associate broker, or sales agent license;
- amends the rulemaking requirements of the Real Estate Commission;
- amends registration requirements under the Real Estate Licensing and Practices Act;
- expands the membership of the Real Estate Appraiser Licensing and Certification Board;
- changes quorum requirements for Real Estate Appraiser Licensing and Certification
Board; and
  • makes technical and conforming changes.

Money Appropriated in this Bill:
None

Other Special Clauses:
None

Utah Code Sections Affected:

AMENDS:
- 61-2-203, as last amended by Laws of Utah 2019, Chapter 337
- 61-2e-102, as last amended by Laws of Utah 2018, Chapter 213
- 61-2e-205, as enacted by Laws of Utah 2018, Chapter 213
- 61-2e-402, as last amended by Laws of Utah 2012, Chapter 369
- 61-2f-103, as last amended by Laws of Utah 2020, Chapters 352 and 373
- 61-2f-203, as last amended by Laws of Utah 2016, Chapter 25
- 61-2f-206, as last amended by Laws of Utah 2017, Chapter 182
- 61-2g-204, as last amended by Laws of Utah 2020, Chapters 352 and 373

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

Section 1. Section 61-2-203 is amended to read:

61-2-203. Adjudicative proceedings -- Citation authority.
  (1) The division shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in an adjudicative proceeding under a chapter the division administers.
  (2) The division may initiate an adjudicative proceeding through:
      (a) a notice of agency action; or
      (b) a notice of formal or informal proceeding.
  (3) The provisions of Title 63G, Chapter 4, Administrative Procedures Act, do not apply to the issuance of a citation under Subsection (4), unless a licensee or another person authorized by law to contest the validity or correctness of a citation commences an adjudicative proceeding contesting the citation.
  (4) In addition to any other statutory penalty for a violation related to an occupation or profession regulated under this title, the division may issue a citation to a person who, upon
inspection or investigation, the division concludes to have violated:
(a) Subsection 61-2c-201(1), which requires licensure;
(b) Subsection 61-2c-201(4), which requires [entity] licensure;
(c) Subsection 61-2c-205(3), which requires notification of a change in specified information regarding a licensee;
(d) Subsection 61-2c-205(4), which requires notification of a specified legal action;
(e) Subsection 61-2c-301(1)(g), which prohibits failing to respond to the division within the required time period;
(f) Subsection 61-2c-301(1)(h), which prohibits making a false representation to the division;
(g) Subsection 61-2c-301(1)(i), which prohibits taking a dual role in a transaction;
(h) Subsection 61-2c-301(1)(l), which prohibits engaging in false or misleading advertising;
(i) Subsection 61-2c-301(1)(t), which prohibits advertising the ability to do licensed work if unlicensed;
(j) Subsection 61-2c-302(5), which requires a mortgage entity to create and file a quarterly report of condition;
(k) Subsection 61-2e-201(1), which requires registration;
(l) Subsection 61-2e-203(4), which requires a notification of a change in ownership;
(m) Subsection 61-2e-307(1)(c), which prohibits use of an unregistered fictitious name;
(n) Subsection 61-2e-401(1)(c), which prohibits failure to respond to a division request;
(o) Subsection 61-2f-201(1), which requires licensure;
(p) Subsection 61-2f-206(1), which requires [entity] registration;
(q) Subsection 61-2f-301(1), which requires notification of a specified legal action;
(r) Subsection 61-2f-401(1)(a), which prohibits making a substantial misrepresentation;
(s) Subsection 61-2f-401(3), which prohibits undertaking real estate while not affiliated with a principal broker;
(t) Subsection 61-2f-401(9), which prohibits failing to keep specified records and prohibits failing to make the specified records available for division inspection;
(u) Subsection [61-2f-401(13)] 61-2f-401(12), which prohibits false, misleading, or
deceptive advertising;

(v) Subsection [61-2f-401(20)] 61-2f-401(18), which prohibits failing to respond to a division request;

(w) Subsection 61-2g-301(1), which requires licensure;

(x) Subsection 61-2g-405(3), which requires making records required to be maintained available to the division;

(y) Subsection 61-2g-501(2)(c), which requires a person to respond to a division request in an investigation within 10 days after the day on which the request is served;

(z) Subsection 61-2g-502(2)(f), which prohibits using a nonregistered fictitious name;

(aa) a rule made pursuant to any Subsection listed in this Subsection (4);

(bb) an order of the division; or

(cc) an order of the commission or board that oversees the person's profession.

(5) (a) In accordance with Subsection (10), the division may assess a fine against a person for a violation of a provision listed in Subsection (4), as evidenced by:

(i) an uncontested citation;

(ii) a stipulated settlement; or

(iii) a finding of a violation in an adjudicative proceeding.

(b) The division may, in addition to or in lieu of a fine under Subsection (5)(a), order the person to cease and desist from an activity that violates a provision listed in Subsection (4).

(6) Except as provided in Subsection (8)(d), the division may not use a citation to effect a license:

(a) denial;

(b) probation;

(c) suspension; or

(d) revocation.

(7) (a) A citation issued by the division shall:

(i) be in writing;

(ii) describe with particularity the nature of the violation, including a reference to the provision of the statute, rule, or order alleged to have been violated;

(iii) clearly state that the recipient must notify the division in writing within 20 calendar days after the day on which the citation is served if the recipient wishes to contest the
citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iv) clearly explain the consequences of failure to timely contest the citation or to make payment of a fine assessed by the citation within the time period specified in the citation.

(b) The division may issue a notice in lieu of a citation.

(8) (a) A citation becomes final:

(i) if within 20 calendar days after the day on which the citation is served, the person to whom the citation was issued fails to request a hearing to contest the citation; or

(ii) if the director or the director's designee conducts a hearing pursuant to a timely request for a hearing and issues an order finding that a violation has occurred.

(b) The division may extend, for cause, the 20-day period to contest a citation.

(c) A citation that becomes the final order of the division due to a person's failure to timely request a hearing is not subject to further agency review.

(d) (i) The division may refuse to issue, refuse to renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after the citation becomes final.

(ii) The failure of a license applicant to comply with a citation after the citation becomes final is a ground for denial of the license application.

(9) (a) The division may not issue a citation under this section after the expiration of one year after the day on which the violation occurs.

(b) The division may issue a notice to address a violation that is outside of the one-year citation period.

(10) The director or the director's designee shall assess a fine with a citation in an amount that is no more than:

(a) for a first offense, $1,000;

(b) for a second offense, $2,000; and

(c) for each offense subsequent to a second offense, $2,000 for each day of continued offense.

(11) (a) An action for a first or second offense for which the division has not issued a final order does not preclude the division from initiating a subsequent action for a second or subsequent offense while the preceding action is pending.

(b) The final order on a subsequent action is considered a second or subsequent
offense, respectively, provided the preceding action resulted in a first or second offense, respectively.

(12) (a) If a person does not pay a penalty, the director may collect the unpaid penalty by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county:

(A) where the person resides; or

(B) where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal services to the director in an action to collect the penalty.

(c) A court may award reasonable attorney fees and costs to the division in an action the division brings to enforce the provisions of this section.

Section 2. Section 61-2e-102 is amended to read:


As used in this chapter:

(1) "Applicable appraisal standards" means:

(a) the Uniform Standards for Professional Appraisal Practice:

(i) published by the Appraisal Foundation; and

(ii) as adopted under Section 61-2g-403;

(b) Chapter 2g, Real Estate Appraiser Licensing and Certification Act; and

(c) rules made by the board under Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

(2) "Appraisal" means the same as that term is defined in Section 61-2g-102.

(3) "Appraisal foundation" means the same as that term is defined in Section 61-2g-102.

(4) "Appraisal management company" means a third party authorized by one of the following persons to broker an appraisal of a dwelling that is collateral for a residential mortgage loan:

(a) a creditor; or

(b) an underwriter of, or other principal in, a secondary mortgage market.

(5) "Appraisal management service" means:
(a) recruiting, selecting, or retaining an appraiser;
(b) contracting with an appraiser to perform a real estate appraisal activity for a client;
(c) managing the appraisal process, including one or more of the following administrative services:
   (i) receiving an appraisal order or an appraisal report;
   (ii) submitting a completed appraisal report to a client;
   (iii) collecting a fee from a client for a service provided; or
   (iv) paying an appraiser for a real estate appraisal activity; or
   (d) reviewing or verifying the work of an appraiser.
(6) "Appraisal report" means the same as that term is defined in Section 61-2g-102.
(7) "Appraisal Subcommittee" means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.
(8) "Appraiser" means an individual who engages in a real estate appraisal activity.
(9) (a) "Appraiser panel" means a network, list, or roster of appraisers who are:
   (i) licensed or certified in a state, territory, or the District of Columbia; and
   (ii) approved by an appraisal management company to perform appraisals as independent contractors for the appraisal management company.
   (b) "Appraiser panel" includes an appraiser whom the appraisal management company has:
      (i) accepted for consideration for a future appraisal assignment:
      (A) in a residential mortgage loan transaction; or
      (B) for a secondary mortgage market participant in connection with a residential mortgage loan transaction; or
      (ii) engaged to perform an appraisal:
      (A) in a residential mortgage loan transaction; or
      (B) for a secondary mortgage market participant in connection with a residential mortgage loan transaction.
(10) "Board" means the Real Estate Appraiser Licensing and Certification Board that is created in Section 61-2g-204.
(11) "Client" means a person that enters into an agreement with an appraisal
management company for the performance of a real estate appraisal activity.

(12) "Concurrence" means that the entities that are given a concurring role must jointly agree before an action may be taken.

(13) "Controlling person" means:

(a) an owner, officer, or director of an entity seeking to offer appraisal management services;

(b) an individual employed, appointed, or authorized by an appraisal management company who has the authority to:

(i) enter into a contractual relationship with a client for the performance of an appraisal management service; and

(ii) enter into an agreement with an appraiser for the performance of a real estate appraisal activity; or

(c) a person who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

(14) "Creditor" means:

(a) a person who regularly extends credit that, under a written agreement, is subject to a finance charge or is payable in more than four installments, not including any down payment;

(b) a person to whom the obligation described in Subsection (14)(a) is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract.

(15) "Director" means the director of the division.

(16) "Division" means the Division of Real Estate, created in Section 61-2-201, of the Department of Commerce.

(17) "Dwelling" means a residential structure that contains up to four units, regardless of whether the structure is attached to real property, including:

(a) an individual condominium unit;

(b) a cooperative unit;

(c) a mobile home; or

(d) a trailer, if the trailer is used as a residence.

(18) "Entity" means:

(a) a corporation;
(b) a partnership;
(c) a sole proprietorship;
(d) a limited liability company;
(e) another business entity; or
(f) a subsidiary or unit of an entity described in Subsections (18)(a) through (e).

(19) "Federally regulated appraisal management company" means an appraisal management company that is:
(a) owned and controlled by an insured depository institution, as defined in 12 U.S.C. Sec. 1813; and
(b) regulated by:
(i) the Office of the Comptroller of the Currency;
(ii) the Board of Governors of the Federal Reserve System; or
(iii) the Federal Deposit Insurance Corporation.

(20) "Independent contractor" means an appraiser whom an appraisal management company treats as an independent contractor for purposes of federal income taxation.

[(21) "National Registry" means the database maintained by the Appraisal Subcommittee containing information regarding appraisal management companies that are:
(a) licensed or certified by a state, territory, or the District of Columbia; or
(b) federally regulated appraisal management companies.
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[(22) "Person" means an individual or an entity.
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[(23) "Person who regularly extends credit" means a person who:
(a) extends credit, other than credit subject to the requirements of 12 C.F.R. Sec. 1026.32, to a person who has been extended credit for transactions secured by a dwelling more than five times in:
(i) the preceding calendar year; or
(ii) the current calendar year;
(b) originates two or more credit extensions that are subject to the requirements of 12 C.F.R. Sec. 1026.32; or
(c) originates through a mortgage broker a credit extension that is subject to the requirements of 12 C.F.R. Sec. 1026.32.
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[(24) "Real estate appraisal activity" means the same as that term is used within the meaning of "real property appraisal activity" as defined in the Secretary's regulations implementing 12 U.S.C. Sec. 5211."
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276 defined in Section 61-2g-102.
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[(25) (24)] "Residential mortgage loan" means the same as that term is defined in Section 61-2e-102.
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[(26) (25)] (a) "Secondary mortgage market participant" means:
280 (i) a guarantor or insurer of a mortgage-backed security; or
281 (ii) an underwriter or insurer of a mortgage-backed security.
282 (b) "Secondary mortgage market participant" includes an individual investor in a mortgage-backed security, if the investor is also the guarantor, insurer, underwriter, or issuer of the mortgage-backed security.
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[(27) (26)] "Territory" means any of the following United States territories:
286 (a) Guam;
287 (b) Northern Mariana Islands;
288 (c) Puerto Rico; or
289 (d) United States Virgin Islands.
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Section 3. Section 61-2e-205 is amended to read:
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61-2e-205. Division service fees -- Federal registry fees.
292 (1) The division, with the concurrence of the board, shall establish and collect fees, in accordance with Section 63J-1-504, for services the division renders to carry out this chapter.
294 (2) (a) The division shall:
295 [(a)] (i) collect the annual registry fee established by the Appraisal Subcommittee from:
297 [(A)] each appraisal management company registered under this chapter; and
298 [(B)] each federally regulated appraisal management company; and
299 [(i)] (ii) transfer the fees collected under Subsection (2)(a) to the Appraisal Subcommittee on a monthly basis.
300 (b) If an appraisal management company registered under this chapter fails to pay the annual registry fee established by the Appraisal Subcommittee, the division may suspend or revoke the appraisal management company's registration.
304 (3) If an appraisal management company pays a fee or cost to the division with a negotiable instrument or any other payment method that is not honored, the division:
306 (a) may void the transaction for which the payment is submitted;
307 (b) may reverse the transaction, if the division does not receive full payment of the
308 applicable fee or cost; and
309 (c) shall suspend the appraisal management company's registration:
310 (i) beginning the day on which the payment is due; and
311 (ii) ending the day on which payment is made in full.
312 Section 4. Section 61-2e-402 is amended to read:
313 61-2e-402. Enforcement -- Immunity for board.
314 (1) (a) The board may order disciplinary action, with the concurrence of the division,
315 against:
316 (i) an entity registered under this chapter;
317 (ii) an entity required to be registered under this chapter; or
318 (iii) a controlling person of an entity described in this Subsection (1)(a).
319 (b) The board may order disciplinary action, with the concurrence of the division,
320 against an entity, or controlling person of an entity, who is not registered under this chapter, if
321 the entity violated a provision of this chapter or rule made under this chapter:
322 (i) within four years before the day on which the division commences disciplinary
323 action; and
324 (ii) during a period in which:
325 (A) the provision or rule was in effect; and
326 (B) the entity was registered or required to be registered under this chapter.
327 [(b)] (c) If the board, with the concurrence of the division, makes a finding described in
328 Subsection (2) pursuant to an adjudicative proceeding conducted in accordance with Title 63G,
329 Chapter 4, Administrative Procedures Act, the board, with the concurrence of the division,
330 may:
331 (i) revoke, suspend, or place an entity's registration on probation;
332 (ii) deny an entity's original registration;
333 (iii) deny an entity's renewal registration;
334 (iv) in the case of denial or revocation of a registration, set a waiting period for an
335 applicant to apply for a registration under this chapter;
336 (v) order remedial education;
337 (vi) impose a civil penalty upon a person not to exceed the greater of:
338    (A) $5,000 for each violation; or
339    (B) the amount of any gain or economic benefit from a violation;
340    (vii) issue a cease and desist order; or
341    (viii) do a combination of Subsections [(1)(b)(i)] (1)(c)(i) through (vii).
342  (2) Subsection (1) applies if the board finds, with the concurrence of the division, that a
343  person has engaged in, is attempting to, or has attempted to engage in:
344  (a) an act that violates this chapter;
345  (b) an act that violates a rule made under this chapter;
346  (c) procuring a registration for the person or another person by fraud,
347  misrepresentation, or deceit;
348  (d) paying money or attempting to pay money other than a fee provided for by this
349  chapter to an employee of the division to procure a registration under this chapter;
350  (e) an act or omission in the business of an appraisal management company that
351  constitutes dishonesty, fraud, or misrepresentation;
352  (f) unprofessional conduct as defined by statute or rule; or
353  (g) other conduct that constitutes dishonest dealing.
354  (3) (a) If the board, with the concurrence of the director, issues an order that orders a
355  fine or remedial education as part of a disciplinary action against a person, including a
356  stipulation and order, the board shall state in the order the deadline by which the person shall
357  comply with the fine or remedial education requirements.
358  (b) If a person fails to comply by the stated deadline, the person's registration shall be
359  immediately and automatically suspended:
360  (i) beginning the day specified in the order as the deadline for compliance; and
361  (ii) ending the day on which the person complies in full with the order.
362  (c) If a person fails to pay a fine required by an order, the division shall begin a
363  collection process:
364  (i) established by the division by rule made in accordance with Title 63G, Chapter 3,
365  Utah Administrative Rulemaking Act; and
366  (ii) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.
367  (4) To the extent permitted by federal law, the board, with the concurrence of the
368  division, may bring a disciplinary proceeding under this chapter for a violation of 15 U.S.C.
Sec. 1639e(i).

(5) A member of the board is immune from a civil action or criminal prosecution for a disciplinary proceeding under this chapter if:

(a) the action is taken without malicious intent; and

(b) in the reasonable belief that the action taken was taken pursuant to the powers and duties vested in a member of the board under this chapter.

Section 5. Section 61-2f-103 is amended to read:

61-2f-103. Real Estate Commission.

(1) There is created within the division a Real Estate Commission.

(2) The commission shall:

(a) subject to concurrence by the division and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for the administration of this chapter that are not inconsistent with this chapter, including:

(i) licensing of:

(A) a principal broker;

(B) an associate broker; and

(C) a sales agent;

(ii) registration of:

(A) an entity; and

(B) an assumed name under which a person conducts business;

(C) a branch office; and

(D) a property management company;

(iii) prelicensing and postlicensing education curricula;

(iv) examination procedures;

(v) the certification and conduct of:

(A) a real estate school;

(B) a course provider; or

(C) an instructor;

(vi) proper handling of money received by a licensee under this chapter;

(vii) brokerage office procedures and recordkeeping requirements;

(viii) property management;
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404  (c) conduct an administrative hearing not delegated by the commission to an
405  administrative law judge or the division relating to the:
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407  (i) licensing of an applicant;
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409  (ii) conduct of a licensee;
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411  (iii) the certification or conduct of a real estate school, course provider, or instructor
412  regulated under this chapter; or
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414  (iv) violation of this chapter by any person;
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416  (d) with the concurrence of the director, impose a sanction as provided in Section
417  61-2f-404;
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420  (e) advise the director on the administration and enforcement of a matter affecting the
421  division and the real estate sales and property management industries;
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423  (f) advise the director on matters affecting the division budget;
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425  (g) advise and assist the director in conducting real estate seminars; and
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427  (h) perform other duties as provided by this chapter.
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429  [(3)] (4) (a) Except as provided in Subsection [(3)] (3)(b), a state entity may not,
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431  without the concurrence of the commission, make a rule that changes the rights, duties, or
432  obligations of buyers, sellers, or persons licensed under this chapter in relation to a real estate
433  transaction between private parties.
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435  (b) Subsection [(3)] (3)(a) does not apply to a rule made:
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437  (i) under Title 31A, Insurance Code, or Title 7, Financial Institutions Act; or
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439  (ii) by the Department of Commerce or any division or other rulemaking body within
440  the Department of Commerce.
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442  [(4)] (5) (a) The commission shall be comprised of five members appointed by the
443  governor and approved by the Senate in accordance with Title 63G, Chapter 24, Part 2,
444  Vacancies.
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446  (b) Four of the commission members shall:
(i) have at least five years' experience in the real estate business; and
(ii) hold an active principal broker, associate broker, or sales agent license.
(c) One commission member shall be a member of the general public.
(d) The governor may not appoint a commission member described in Subsection [(3)]
[(4)(b) who, at the time of appointment, resides in the same county in the state as another
commission member.
(e) At least one commission member described in Subsection [(3)] [(4)(b) shall at the
time of an appointment reside in a county that is not a county of the first or second class.
[(4)] (5) (a) Except as required by Subsection [(4)] [(5)(b), as terms of current
commission members expire, the governor shall appoint each new member or reappointed
member to a four-year term ending June 30.
(b) Notwithstanding the requirements of Subsection [(4)] [(5)(a), the governor shall, at
the time of appointment or reappointment, adjust the length of terms to ensure that the terms of
commission members are staggered so that approximately half of the commission is appointed
every two years.
(c) Upon the expiration of the term of a member of the commission, the member of the
commission shall continue to hold office until a successor is appointed and qualified.
(d) A commission member may not serve more than two consecutive terms.
(e) Members of the commission shall annually select one member to serve as chair.
[(5)] (6) When a vacancy occurs in the membership for any reason, the governor, with the advice and consent of the Senate, shall appoint a replacement for the unexpired term.
[(6)] (7) A member may not receive compensation or benefits for the member's service,
but may receive per diem and travel expenses in accordance with:
(a) Section 63A-3-106;
(b) Section 63A-3-107; and
(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
[(7)] (8) (a) The commission shall meet at least monthly.
(b) The director may call additional meetings:
(i) at the director's discretion;
(ii) upon the request of the chair; or
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(3) upon the written request of three or more commission members.

[(8)] (9) Three members of the commission constitute a quorum for the transaction of business.

[(9)] (10) A member of the commission shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 6. Section 61-2f-203 is amended to read:

61-2f-203. Licensing requirements.

(1) (a) (i) The division shall determine whether an applicant with a criminal history qualifies for licensure.

(ii) If the division, acting under Subsection (1)(a)(i), denies or restricts a license or places a license on probation, the applicant may petition the commission for de novo review of the application.

(b) Except as provided in Subsection [(5)] (6), the commission shall determine all other qualifications and requirements of an applicant for:

(i) a principal broker license;

(ii) an associate broker license; or

(iii) a sales agent license.

(c) The division, with the concurrence of the commission, shall require and pass upon proof necessary to determine the honesty, integrity, truthfulness, reputation, and competency of each applicant for an initial license or for renewal of an existing license.

(d) (i) The division, with the concurrence of the commission, shall require an applicant for:

(A) a sales agent license to complete an approved educational program consisting of the number of hours designated by rule made by the commission with the concurrence of the division, except that the rule may not require less than 120 hours; and

(B) an associate broker or a principal broker license to complete an approved educational program consisting of the number of hours designated by rule made by the commission with the concurrence of the division, except that the rule may not require less than 120 hours.

(ii) An hour required by this section means 50 minutes of instruction in each 60 minutes.
(iii) The maximum number of program hours available to an individual is eight hours per day.

(e) The division, with the concurrence of the commission, shall require the applicant to pass an examination approved by the commission covering:

(i) the fundamentals of:

(A) the English language;
(B) arithmetic;
(C) bookkeeping; and
(D) real estate principles and practices;

(ii) this chapter;

(iii) the rules established by the commission with the concurrence of the division; and

(iv) any other aspect of Utah real estate license law considered appropriate.

(f) (i) Three years' full-time experience as a sales agent or its equivalent is required before an applicant may apply for, and secure a principal broker or associate broker license in this state.

(ii) The commission shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division, the criteria by which the commission will accept experience or special education in similar fields of business in lieu of the three years' experience.

(2) (a) The division, with the concurrence of the commission, may require an applicant to furnish a sworn statement setting forth evidence satisfactory to the division of the applicant's reputation and competency as set forth by rule.

(b) The division shall require an applicant to provide the applicant's social security number, which is a private record under Subsection 63G-2-302(1)(i).

(3) (a) An individual who is not a resident of this state may be licensed in this state if the person complies with this chapter.

(b) An individual who is not a resident of this state may be licensed as an associate broker or sales agent in this state by:

(i) complying with this chapter; and

(ii) being employed or engaged as an independent contractor by or on behalf of a principal broker who is licensed in this state, regardless of whether the principal broker is a
(4) The division, with the concurrence of the commission, may enter into a reciprocal licensing agreement with another jurisdiction for the licensure of a principal broker, an associate broker, or a sales agent, if the jurisdiction's requirements and standards for the license are substantially similar to those of this state.

[(4)] (5) (a) The division and commission shall treat an application to be relicensed of an applicant whose real estate license is revoked as an original application.

(b) In the case of an applicant for a new license as a principal broker or associate broker, the applicant is not entitled to credit for experience gained before the revocation of a real estate license.

[(5)] (6) (a) Notwithstanding Subsection (1)(b), the commission may delegate to the division the authority to:

(i) review a class or category of applications for initial or renewed licenses;

(ii) determine whether an applicant meets the licensing criteria in Subsection (1); and

(iii) approve or deny a license application without concurrence by the commission.

(b) (i) If the commission delegates to the division the authority to approve or deny an application without concurrence by the commission and the division denies an application for licensure, the applicant who is denied licensure may petition the commission for de novo review of the application.

(ii) An applicant who is denied licensure pursuant to this Subsection [(5)] (6) may seek agency review by the executive director only after the commission has reviewed the division's denial of the applicant's application.

Section 7. Section 61-2f-206 is amended to read:

61-2f-206. Registration of person or branch office -- Certification of education providers and courses -- Specialized licenses.

(1) (a) [An entity] A person may not engage in an activity described in Section 61-2f-201, unless [it] the person is registered with the division.

(b) To register with the division under this Subsection (1), [an entity] a person shall submit to the division:

(i) an application in a form required by the division;

(ii) evidence of an affiliation with a principal broker;
(iii) evidence that the [entity] person is registered and in good standing with the
Division of Corporations and Commercial Code; and
(iv) a registration fee established by the commission with the concurrence of the
division under Section 63J-1-504.
(c) The division may terminate [an entity's] a person's registration if:
(i) the [entity's] person's registration with the Division of Corporations and
Commercial Code has been expired for at least three years; and
(ii) the [entity's] person's license with the division has been inactive for at least three
years.
(2) (a) A principal broker shall register with the division each of the principal broker's
branch offices.
(b) To register a branch office with the division under this Subsection (2), a principal
broker shall submit to the division:
(i) an application in a form required by the division; and
(ii) a registration fee established by the commission with the concurrence of the
division under Section 63J-1-504.
(3) (a) In accordance with rules made by the commission with the concurrence of the
division and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
the division shall certify:
(i) a real estate school;
(ii) a course provider; or
(iii) an instructor.
(b) In accordance with rules made by the commission in accordance with Title 63G,
Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division, the
division shall certify a continuing education course that is required under this chapter.
(4) Except as provided [by rule] under this chapter or by rule the commission makes in
accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a principal broker
may not be responsible for more than one registered [entity] person at the same time.
[(5) A principal broker may simultaneously supervise one main office and up to two
additional branch offices.]
[(6) A branch broker may simultaneously supervise up to three branch offices.]
(5) A principal broker:
   (a) shall exercise active and reasonable supervision of the principal broker's main
       office in accordance with this chapter and rules the commission makes in accordance with Title
       63G, Chapter 3, Utah Administrative Rulemaking Act; and
   (b) may supervise a branch office affiliated with the principal broker at the same time
       the principal broker exercises the supervision required under Subsection (5)(a).

(6) (a) A principal broker may designate a branch broker to supervise a branch office
       affiliated with the principal broker.
   (b) A branch broker shall exercise active and reasonable supervision, in accordance
       with this chapter and rules the commission makes in accordance with Title 63G, Chapter 3,
       Utah Administrative Rulemaking Act, of each branch office the principal broker designates the
       branch broker to supervise.

(7) (a) In addition to issuing a principal broker license, associate broker license, or
       sales agent license authorizing the performance of an act set forth in Section 61-2f-201, the
       division may issue a specialized sales license or specialized property management license with
       the scope of practice limited to the specialty.
   (b) An individual may hold a specialized license in addition to a license as a principal
       broker, associate broker, or a sales agent.
   (c) A sales agent who is affiliated with a dual broker may act as a property
       management sales agent if:
       (i) the dual broker designates the sales agent as a property management sales agent; and
       (ii) the sales agent pays to the division a property management sales agent designation
            fee in an amount determined by the division in accordance with Section 63J-1-504.
   (d) A property management sales agent may simultaneously provide both property
       management services and real estate sales services under the supervision of a dual broker as
       provided by the commission with the concurrence of the division by rule made in accordance
       with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) The commission may determine, by rule made in accordance with Title 63G,
    Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division,
    licensing requirements related to this section for a principal broker, associate broker, sales
    agent, dual broker, property management sales agent, or for a specialized license described in
Subsection (7), including:

(a) prelicensing and postlicensing education requirements;
(b) examination requirements;
(c) affiliation with real estate brokerages or property management companies;
(d) property management sales agent:
   (i) designation procedures;
   (ii) allowable scope of practice; and
   (iii) division fees;
(e) what constitutes active and reasonable supervision for:
   (i) a principal broker when supervising a branch broker or sales agent; and
   (ii) a branch broker when supervising a sales agent; and
(f) other licensing procedures.

Section 8. Section 61-2g-204 is amended to read:

61-2g-204. Real Estate Appraiser Licensing and Certification Board.

(1) (a) There is established a Real Estate Appraiser Licensing and Certification Board that consists of [five] seven regular members as follows:
   (i) one state-licensed or state-certified appraiser who may be either a residential or general licensee or certificate holder;
   (ii) one state-certified residential appraiser;
   (iii) one state-certified general appraiser;
   (iv) one member who is certified as either a state-certified residential appraiser or a state-certified general appraiser; and
   (v) one member who represents an appraisal management company registered in accordance with Chapter 2e, Appraisal Management Company Registration and Regulation Act;
   (vi) one member:
      (A) who is licensed or represents a person licensed under Chapter 2c, Utah Residential Mortgage Practices and Licensing Act; or
      (B) who represents a mortgage lender, as defined in Section 70D-2-102, operating in the state in accordance with Title 70D, Chapter 2, Mortgage Lending and Servicing Act; and
   [(vii) (vii)] one member of the general public.
(b) A state-licensed or state-certified appraiser may be appointed as an alternate member of the board.

(c) The governor shall appoint all members of the board with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(2) (a) Except as required by Subsection (2)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term beginning on July 1.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) Upon the expiration of a member's term, a member of the board shall continue to hold office until the appointment and qualification of the member's successor.

(d) A person may not serve as a member of the board for more than two consecutive terms.

(3) (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(b) The governor may remove a member for cause.

(4) The public member of the board may not be licensed or certified under this chapter.

(5) The board shall meet at least quarterly to conduct its business. The division shall give public notice of a board meeting.

(6) The members of the board shall elect a chair annually from among the members to preside at board meetings.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) (a) [Three] Four members of the board shall constitute a quorum for the transaction of business.
(b) If a quorum of members is unavailable for any meeting, the alternate member of the board, if any, shall serve as a regular member of the board for that meeting if with the presence of the alternate member a quorum is present at the meeting.

(c) A member of the board shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.