DIVISION OF REAL ESTATE AMENDMENTS
2022 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 a provision regarding the payment of expenses incurred by the division in processing an application to transact the business of residential mortgage loans;
- amends the general qualifications of licensure to transact the business of residential mortgage loans;
- amends provisions related to disciplinary action under the Utah Residential Mortgage Practices and Licensing Act;
- removes a provision regarding the payment of costs incurred by the division after the finding of a violation under the Appraisal Management Company Registration and Regulation Act;
- amends provisions under the Real Estate Licensing and Practices Act related to: licensing, fees, and disciplinary action; and rulemaking of the Real Estate Commission; and
- makes technical and conforming changes.

Money Appropriated in this Bill:
None
Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

61-2c-202, as last amended by Laws of Utah 2020, Chapter 72
61-2c-203, as last amended by Laws of Utah 2012, Chapter 166
61-2c-402, as last amended by Laws of Utah 2016, Chapter 384
61-2e-401, as last amended by Laws of Utah 2018, Chapter 213
61-2f-103, as last amended by Laws of Utah 2021, Chapter 259
61-2f-202, as last amended by Laws of Utah 2018, Chapters 213 and 462
61-2f-203, as last amended by Laws of Utah 2021, Chapter 259
61-2f-204, as last amended by Laws of Utah 2019, Chapter 337
61-2f-206, as last amended by Laws of Utah 2021, Chapter 259
61-2f-207, as renumbered and amended by Laws of Utah 2010, Chapter 379
61-2f-401, as last amended by Laws of Utah 2020, Chapter 72
61-2f-402, as last amended by Laws of Utah 2020, Chapter 72

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

Section 1. Section 61-2c-202 is amended to read:


(1) To apply for licensure under this chapter an applicant shall in a manner provided by the division by rule:

(a) if the applicant is an entity, submit:

(i) through the nationwide database, a licensure statement that:

(A) lists any name under which the entity will transact business in this state;

(B) lists the address of the principal business location of the entity;

(C) identifies each control person for the entity;

(D) identifies each jurisdiction in which the entity is registered, licensed, or otherwise regulated in the business of residential mortgage loans;

(E) discloses any adverse administrative action taken by an administrative agency against the entity or a control person for the entity; and
(F) discloses any history of criminal proceedings that involves a control person of the entity; and

(ii) a notarized letter to the division that:

(A) is on the entity's letterhead;

(B) is signed by the entity's owner, director, or president;

(C) authorizes the principal lending manager to do business under the entity's name and under each of the entity's licensed trade names, if any; and

(D) includes any information required by the division by rule;

(b) if the applicant is an individual:

(i) submit a licensure statement that identifies the entity with which the applicant is sponsored;

(ii) authorize periodic criminal background checks through the nationwide database, at times provided by rule that the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, accessing the Federal Bureau of Investigation;

(iii) submit evidence using a method approved by the division by rule of having successfully completed approved prelicensing education in accordance with Section 61-2c-204.1;

(iv) submit evidence using a method approved by the division by rule of having successfully passed any required licensing examination in accordance with Section 61-2c-204.1;

(v) submit evidence using a method approved by the division by rule of having successfully registered in the nationwide database, including paying a fee required by the nationwide database; and

(vi) authorize the division to obtain independent credit reports:

(A) through a consumer reporting agency described in Section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. Sec. 1681a; and

(B) at times provided by rule that the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(c) pay to the division[¶(t)] an application fee established by the division in accordance with Section 63J-1-504[¶and].

[(ii) the reasonable expenses incurred by the division in processing the application for]
licensure.

(2) (a) Upon receiving an application, the division, with the concurrence of the commission, shall determine whether the applicant:

(i) meets the qualifications for licensure; and

(ii) complies with this section.

(b) If the division, with the concurrence of the commission, determines that an applicant meets the qualifications for licensure and complies with this section, the division shall issue the applicant a license.

(c) If the division, with the concurrence of the commission, determines that the division requires more information to make a determination under Subsection (2)(a), the division may:

(i) hold the application pending further information about an applicant's criminal background or history related to adverse administrative action in any jurisdiction; or

(ii) issue a conditional license:

(A) pending the completion of a criminal background check; and

(B) subject to probation, suspension, or revocation if the criminal background check reveals that the applicant did not truthfully or accurately disclose on the licensing application a criminal history or other history related to adverse administrative action.

(3) (a) The commission may delegate to the division the authority to:

(i) review a class or category of application for an initial or renewed license;

(ii) determine whether an applicant meets the qualifications for licensure;

(iii) conduct a necessary hearing on an application; and

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

(b) 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 a de novo review of the application.

(c) An applicant who is denied licensure under Subsection (3)(b) may seek agency review by the executive director only after the commission reviews the division's denial of the applicant's application.

(d) Subject to Subsection (3)(c) and in accordance with Title 63G, Chapter 4,
Administrative Procedures Act, an applicant who is denied licensure under this chapter may submit a request for agency review to the executive director within 30 days following the day on which the commission order denying the licensure is issued.

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

61-2c-203. General qualifications for licensure.

(1) To qualify for licensure under this chapter, a person shall demonstrate through procedures established by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) financial responsibility;
(b) [good moral character:] honesty, integrity, and truthfulness; and
(c) the competence to transact the business of residential mortgage loans, including general fitness such as to command the confidence of the community and to warrant a determination that the person will operate honestly, fairly, and efficiently within the purposes of this chapter.

(2) If an applicant is an entity, the applicant may not have a control person who fails to meet the requirements of Subsection (1) for an individual applicant.

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

(b) If the division, acting under Subsection (3)(a), denies or restricts a license or places a license on probation, the applicant may petition the commission for de novo review of the application.

Section 3. Section 61-2c-402 is amended to read:

61-2c-402. Disciplinary action.

(1) Subject to the requirements of Section 61-2c-402.1, the commission, with the concurrence of the division, may impose a sanction described in Subsection (2) against a person if the person:

(a) (i) is a licensee[, a person previously licensed under this chapter for an act the person committed while licensed,] or a person required to be licensed under this chapter; and

(ii) violates this chapter; or

(b) (i) is not registered under this chapter; and

(ii) violated a provision of this chapter during a period in which:
152 (A) the provision of this chapter was in effect; and
153 (B) the person was registered or required to be registered under this chapter; or
154 [(b)] (c) (i) is a certified education provider or person required to be certified to
155 provide prelicensing or continuing education under this chapter; and
156 (ii) violates this chapter.
157 (2) The commission, with the concurrence of the director, may against a person
158 described in Subsection (1):
159 (a) impose an educational requirement;
160 (b) impose a civil penalty against the individual or entity in an amount not to exceed
161 the greater of:
162 (i) $5,000 for each violation; or
163 (ii) the amount equal to any gain or economic benefit derived from each violation;
164 (c) deny an application for an original license;
165 (d) do any of the following to a license under this chapter:
166 (i) suspend;
167 (ii) revoke;
168 (iii) place on probation;
169 (iv) reduce a lending manager license to a loan originator license;
170 (v) deny renewal;
171 (vi) deny reinstatement; or
172 (vii) in the case of a denial of a license or a suspension that extends to the expiration
173 date of a license, set a waiting period for a person to apply for a license under this chapter;
174 (e) issue a cease and desist order;
175 (f) require the reimbursement of the division of costs incurred by the division related to
176 the recovery, storage, or destruction of a record that the person disposes of in a manner that
177 violates this chapter or a rule made under this chapter;
178 (g) modify a sanction described in Subsections (2)(a) through (f) if the commission
179 finds that the person complies with court ordered restitution; or
180 (h) impose any combination of sanctions described in this Subsection (2).
181 (3) (a) If the commission, with the concurrence of the division, issues an order that
182 orders a fine or educational requirements as part of a disciplinary action against a person,
including a stipulation and order, the commission shall state in the order the deadline by which
the person shall comply with the fine or educational requirements.

(b) If a person fails to comply with a stated deadline:

(i) the person's license or certificate is automatically suspended:

(A) beginning the day specified in the order as the deadline for compliance; and

(B) ending the day on which the person complies in full with the order; and

(ii) if the person fails to pay a fine required by an order, the division may begin a
collection process:

(A) established by the division by rule made in accordance with Title 63G, Chapter 3,
Utah Administrative Rulemaking Act; and

(B) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.

(4) (a) A person whose license was revoked under this chapter before May 11, 2010,
may request that the revocation be converted to a suspension under this Subsection (4):

(i) if the revocation was not as a result of a felony conviction involving fraud,

misrepresentation, deceit, dishonesty, breach of trust, or money laundering; and

(ii) by filing a written request with the division.

(b) Upon receipt of a request to convert a revocation under this Subsection (4), the
commission, with the concurrence of the director, shall determine whether to convert the
revocation.

(c) The commission may delegate to the division the authority to make a decision on
whether to convert a revocation.

(d) If the division, acting under Subsection (4)(c), denies a request to convert a
revocation, the person who requests the conversion may appeal the decision in a hearing
conducted by the commission:

(i) after the division denies the request to convert the revocation; and

(ii) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(e) The commission may delegate to the division or an administrative law judge the
authority to conduct a hearing described in Subsection (4)(d).

(5) (a) A person whose license the commission revokes in accordance with this section
may file a written request with the division for the vacation of the license revocation, if the
person:
(i) has not held a license under this chapter for at least eight years before the day on which the person files the request; and

(ii) has not been convicted of a felony involving:

(A) fraud;
(B) misrepresentation;
(C) deceit;
(D) dishonesty;
(E) breach of trust; or
(F) money laundering.

(b) After receiving a written request a person makes in accordance with Subsection (5)(a), the commission may vacate the revocation of the person's license:

(i) after a hearing; and

(ii) with the concurrence of the division.

(c) A person whose license revocation is vacated in accordance with this Subsection (5) may apply for licensure in accordance with this chapter.

Section 4. Section 61-2e-401 is amended to read:


(1) (a) In addition to a power or duty expressly provided in this chapter, the division may:

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

(ii) receive and act on a complaint including:

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

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

(iii) conduct a public or private investigation of an entity required to be registered under this chapter, regardless of whether the entity is located in Utah;
(iv) employ one or more investigators, clerks, or other employees or agents if:

(A) approved by the executive director; and

(B) within the budget of the division; and

(v) issue a subpoena that requires:

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

(B) the production of evidence.

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

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

(c) A failure to respond to a request by the division in an investigation under this chapter within 10 days after the day on which the request is served is considered to be a separate violation of this chapter, including:

(i) failing to respond to a subpoena;

(ii) withholding evidence; or

(iii) failing to produce a document or record.

[(2)(a) If a person is found to have violated this chapter or a rule made under this chapter, the person shall pay the costs incurred by the division to copy a book, paper, contract, document, or record required under this chapter, including the costs incurred to copy an electronic book, paper, contract, document, or record in a universally readable format.]

[(b) If a person fails to pay the costs described in Subsection (2)(a) when due, the person's registration is automatically suspended:]

[(i) beginning the day on which the payment of costs is due; and]

[(ii) ending the day on which the costs are paid in full.]

[(3) The division is immune from a civil action or criminal prosecution for initiating or assisting in a lawful investigation of an act or participating in a disciplinary proceeding under this chapter if the division takes the action:]

(a) without malicious intent; and

(b) in the reasonable belief that the action is taken pursuant to the powers and duties vested in the division under this chapter.

[(4) Upon the Appraisal Subcommittee's request, the division shall timely transmit]
a report to the Appraisal Subcommittee regarding the division's supervisory activities involving appraisal management companies or other third-party providers of appraisals and appraisal management services, including any investigation the division initiates or disciplinary action the division takes.

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;

(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;

(ix) standards of conduct for a licensee under this chapter; [and]

(x) if the commission, with the concurrence of the division, determines necessary, a
rule as provided in Subsection 61-2f-306(3) regarding a legal form;

(xi) the qualification and designation of an acting principal broker in the event a principal broker dies, is incapacitated, or is unable to perform the duties of a principal broker, as described in Section 61-2f-202; and

(xii) giving or paying an inducement gift or a closing gift to a buyer or seller in a real property transaction;

(b) establish, with the concurrence of the division, a fee provided for in this chapter, except a fee imposed under Part 5, Real Estate Education, Research, and Recovery Fund Act;

(c) conduct an administrative hearing not delegated by the commission to an administrative law judge or the division relating to the:

(i) licensing of an applicant;

(ii) conduct of a licensee;

(iii) the certification or conduct of a real estate school, course provider, or instructor regulated under this chapter; or

(iv) violation of this chapter by any person;

(d) with the concurrence of the director, impose a sanction as provided in Section 61-2f-404;

(e) advise the director on the administration and enforcement of a matter affecting the division and the real estate sales and property management industries;

(f) advise the director on matters affecting the division budget;

(g) advise and assist the director in conducting real estate seminars; and

(h) perform other duties as provided by this chapter.

(3) (a) Except as provided in Subsection (3)(b), a state entity may not, without the concurrence of the commission, make a rule that changes the rights, duties, or obligations of buyers, sellers, or persons licensed under this chapter in relation to a real estate transaction between private parties.

(b) Subsection (3)(a) does not apply to a rule made:

(i) under Title 31A, Insurance Code, or Title 7, Financial Institutions Act; or

(ii) by the Department of Commerce or any division or other rulemaking body within the Department of Commerce.

(4) (a) The commission shall be comprised of five members appointed by the governor
and approved by the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(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 (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 (4)(b) shall at the time of an appointment reside in a county that is not a county of the first or second class.

(5) (a) Except as required by Subsection (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 (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.

(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.

(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) 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
(iii) upon the written request of three or more commission members.

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

(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-202 is amended to read:


(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(20) 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(20)(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 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[; or]
   (vii) in the event a principal broker dies, is incapacitated, or is unable to perform the duties of a principal broker, an individual qualified and designated as the commission
determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with the concurrence of the division, as an acting principal broker:

(A) in relation to each transaction pending on the day on which the principal broker dies, becomes incapacitated, or becomes unable to perform the duties of a principal broker, including the distribution of compensation for each transaction; and

(B) until the day on which each transaction described in Subsection (1)(a)(vii)(A) is completed.

(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) subject to Subsection 61-2f-401(5), 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(20) 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 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.
(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.

(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.

(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.

Section 7. 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 (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) (A) Except as provided in Subsection (1)(d)(i)(B), the division, with the concurrence of the commission, shall require an applicant for 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 not less than 120 hours, as designated by rule the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with the concurrence of the division.

(B) If on the day on which an applicant for a sales agent license applies for the license the applicant is licensed as a real estate sales agent in another state, the division may require the applicant to complete a division-approved, state-specific educational program consisting of the number of hours designated by rule the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with the concurrence of the division.

(ii) (A) Except as provided in Subsection (1)(d)(ii)(B), the division, with the concurrence of the commission, shall require an applicant for 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; and not less than 120 hours, as designated by rule the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with the concurrence of the division.

(B) If on the day on which an applicant for an associate broker or a principal broker license
license applies for the license the applicant is licensed as a real estate broker in another state,  
the division may require the applicant to complete a division-approved, state-specific  
educational program consisting of the number of hours designated by rule the commission  
makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with the  
concurrence of the division.  

[(iii)] (iii) An hour required by this section means 50 minutes of instruction in each 60  
minutes.  

[(iv)] (iv) The maximum number of program hours available to an individual is eight  
hours per day.  

(e) (i) [The] Except as provided in Subsection (1)(e)(ii), the division, with the  
concurrence of the commission, shall require [the] an applicant to pass an examination  
approved by the commission covering:  

[(A)] the fundamentals of the English language;  
(B) the fundamentals of arithmetic;  
(C) the fundamentals of bookkeeping; [and]  
(D) the fundamentals of real estate principles and practices;  
[(E)] this chapter;  
[(F)] the rules established by the commission with the concurrence of the division;  
and  

[(G)] any other aspect of Utah real estate license law considered appropriate.  
(ii) If on the day on which an applicant applies for a license the applicant is licensed as  
a real estate broker or a sales agent in another state, the division may, with the concurrence of  
the commission, require the applicant to pass a division-approved, state-specific examination  
rather than the examination required under Subsection (1)(e)(i).  

(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 resident of this state.

(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.

(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.

(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.
An applicant who is denied licensure pursuant to this Subsection (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 8. Section 61-2f-204 is amended to read:

61-2f-204. Licensing fees and procedures -- Renewal fees and procedures.

(1) (a) Upon filing an application for an examination for a license under this chapter, the applicant shall pay a nonrefundable fee established in accordance with Section 63J-1-504 for admission to the examination.

(b) An applicant for a principal broker, associate broker, or sales agent license shall pay a nonrefundable fee as determined by the commission with the concurrence of the division under Section 63J-1-504 for issuance of an initial license or license renewal.

(c) A license issued under this Subsection (1) shall be issued for a period of not less than two years as the division determines with the concurrence of the commission.

(d) (i) Each of the following applicants shall comply with this Subsection (1)(d):

(A) a new sales agent applicant;

(B) a principal broker applicant; and

(C) an associate broker applicant.

(ii) An applicant described in this Subsection (1)(d) shall at the time the licensee files an application:

(A) submit to the division fingerprint cards in a form acceptable to the Department of Public Safety;

(B) submit to the division a signed waiver in accordance with Subsection 53-10-108(4), acknowledging the registration of the applicant's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service beginning January 1, 2020;

(C) consent to a criminal background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation; and

(D) pay the fee the division establishes in accordance with Subsection (1)(d)(vi).

(iii) The Bureau of Criminal Identification shall:

(A) check the fingerprints an applicant submits under Subsection (1)(d)(ii) against the applicable state, regional, and national criminal records databases, including, beginning
January 1, 2020, the Federal Bureau of Investigation Next Generation Identification System; (B) report the results of the background check to the division; (C) maintain a separate file of fingerprints that applicants submit under Subsection (1)(d) for search by future submissions to the local and regional criminal records databases, including latent prints; (D) request that beginning January 1, 2020, the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and (E) ensure that the division only receives notifications for an individual with whom the division maintains permission to receive notifications. (iv) (A) The division shall assess an applicant who submits fingerprints under Subsection (1)(d) or (2)(g) a fee in an amount that the division sets in accordance with Section 63J-1-504 for services that the division and the Bureau of Criminal Identification or another authorized agency provide under Subsection (1)(d) or (2)(g). (B) The Bureau of Criminal Identification may collect from the division money for services provided under this section. (v) Money paid to the division by an applicant for the cost of the criminal background check is nonlapsing. (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and with the concurrence of the division, the commission may make rules for the administration of this Subsection (1)(d) and Subsection (2)(g) regarding criminal background checks with ongoing monitoring. (e) (i) A license issued under Subsection (1)(d) is conditional, pending completion of the criminal background check. (ii) A license is immediately and automatically revoked if the criminal background check discloses the applicant fails to accurately disclose a criminal history involving: [(A) the real estate industry; or] [(B) a felony conviction on the basis of an allegation of fraud, misrepresentation, or deceit.] (iii) If a criminal background check discloses that an applicant fails to accurately
disclose a criminal history [other than one described in Subsection (1)(e)(ii)], the division:
(A) shall review the application; and
(B) in accordance with rules made by the division pursuant to Title 63G, Chapter 3,
Utah Administrative Rulemaking Act, may:
(I) place a condition on a license;
(II) place a restriction on a license;
(III) revoke a license; or
(IV) refer the application to the commission for a decision.
[(iv)] (iii) (A) A person whose conditional license is [automatically revoked under Subsection (1)(e)(ii) or whose license is] conditioned, restricted, or revoked under Subsection (1)(e)(iii) may have a hearing after the action is taken to challenge the action.
(B) The division shall conduct a hearing described in Subsection [(1)(d)(iv)(A)] (1)(e)(iii)(A) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
[(v)] (iv) The director shall designate one of the following to act as the presiding officer in a hearing described in Subsection [(1)(e)(iv)(A)] (1)(e)(iii)(A):
(A) the division; or
(B) the division with the concurrence of the commission.
[(vi) (v) The presiding officer shall decide whether relief from an action under this Subsection (1)(e) is granted.
[(vii)] Relief from an automatic revocation under Subsection (1)(e)(ii) may be granted only if:
(A) the criminal history upon which the division based the revocation:
(1) did not occur; or
(2) is the criminal history of another person;
(3) the revocation is based on a failure to accurately disclose a criminal history;
and]
(4) the applicant has a reasonable good faith belief at the time of application that there was no criminal history to be disclosed; or
[(viii)] (vi) If a license is revoked or a revocation under this Subsection (1)(e) is upheld after a hearing, the individual may not apply for a new license until at least 12 months after the
day on which the license is revoked.

(2) (a) (i) A license expires if it is not renewed on or before the expiration date of the license.

(ii) As a condition of renewal, an active licensee shall demonstrate competence by completing 18 hours of continuing education within a two-year renewal period subject to rules made by the commission, with the concurrence of the division.

(iii) In making a rule described in Subsection (2)(c)(ii), the division and commission shall consider:

(A) evaluating continuing education on the basis of competency, rather than course time;

(B) allowing completion of courses in a significant variety of topic areas that the division and commission determine are valuable in assisting an individual licensed under this chapter to increase the individual's competency; and

(C) allowing completion of courses that will increase a licensee's professional competency in the area of practice of the licensee.

(iv) The division may award credit to a licensee for a continuing education requirement of this Subsection (2)(a) for a reasonable period of time upon a finding of reasonable cause, including:

(A) military service; or

(B) if an individual is elected or appointed to government service, the individual's government service during which the individual spends a substantial time addressing real estate issues subject to conditions established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) For a period of 30 days after the day on which a license expires, the license may be reinstated:

(i) if the applicant's license was inactive on the day on which the applicant's license expired, upon payment of a renewal fee and a late fee determined by the commission with the concurrence of the division under Section 63J-1-504; or

(ii) if the applicant's license was active on the day on which the applicant's license expired, upon payment of a renewal fee and a late fee determined by the commission with the concurrence of the division under Section 63J-1-504, and providing proof acceptable to the
division and the commission of the licensee having:

(A) completed the hours of education required by Subsection (2)(a); or

(B) demonstrated competence as required under Subsection (2)(a).

(c) After the 30-day period described in Subsection (2)(b), and until six months after the day on which an active or inactive license expires, the license may be reinstated by: (i) paying a renewal fee and a late fee determined by the commission with the concurrence of the division under Section 63J-1-504; (ii) providing to the division proof of satisfactory completion of six hours of continuing education: (A) in addition to the requirements for a timely renewal; and (B) on a subject determined by the commission by rule with the concurrence of the division and made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and (iii) providing proof acceptable to the division and the commission of the licensee having: (A) completed the hours of education required under Subsection (2)(a); or (B) demonstrated competence as required under Subsection (2)(a).

(d) After the six-month period described in Subsection (2)(c), and until one year after the day on which an active or inactive license expires, the license may be reinstated by:

(i) paying a renewal fee and a late fee determined by the commission with the concurrence of the division under Section 63J-1-504; and

(ii) providing proof acceptable to the division and the commission of the licensee having: (A) completed the hours of education required under Subsection (2)(a); or (B) demonstrated competence as required under Subsection (2)(a).

(e) The division shall relicense a person who does not renew that person's license within one year as prescribed for an original application.

(f) Notwithstanding Subsection (2)(a), the division may extend the term of a license that would expire under Subsection (2)(a) except for the extension if:
(i) (A) the person complies with the requirements of this section to renew the license; and

(B) the renewal application remains pending at the time of the extension; or

(ii) at the time of the extension, there is pending a disciplinary action under this chapter.

Beginning January 1, 2020, each applicant for renewal or reinstatement of a license to practice as a sales agent, principal broker, or associate broker who is not already subject to ongoing monitoring of the individual's criminal history shall, at the time the application for renewal or reinstatement is filed:

(i) submit fingerprint cards in a form acceptable to the Department of Public Safety;

(ii) submit to the division a signed waiver in accordance with Subsection 53-10-108(4), acknowledging the registration of the applicant's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service;

(iii) consent to a fingerprint background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation; and

(iv) pay the fee the division establishes in accordance with Subsection [(1)(d)(v)] (1)(d)(iv).

(3) (a) As a condition for the activation of an inactive license that was in an inactive status at the time of the licensee's most recent renewal, the licensee shall supply the division with proof of:

(i) successful completion of the respective sales agent or principal broker licensing examination within six months before the day on which the licensee applies to activate the license; or

(ii) the successful completion of the hours of continuing education that the licensee would have been required to complete under Subsection (2)(a) if the license had been on active status at the time of the licensee's most recent renewal.

(b) The commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division, establish by rule:

(i) the nature or type of continuing education required for reactivation of a license; and

(ii) how long before reactivation the continuing education must be completed.

Section 9. 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) A person may not engage in an activity described in Section 61-2f-201, unless the person is registered with the division.

(b) To register with the division under this Subsection (1), 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 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 a person's registration if:

(i) the person's registration with the Division of Corporations and Commercial Code has been expired for at least three years; and

(ii) the 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 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 at the same time.

(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 10. Section 61-2f-207 is amended to read:

61-2f-207. Change of information -- Failure to notify.

(1) An applicant, licensee, registrant, or certificate holder shall send the division a signed statement in the form required by the division notifying the division within 10 business days of any change of:

(a) principal broker;
(b) principal business location;
(c) mailing address;
(d) home street address;
(e) an individual's name; or
(f) business name.

[(2) The division may charge a fee established by the commission with the concurrence of the division in accordance with Section 63J-1-504 for processing any notification of change submitted by an applicant, licensee, registrant, or certificate holder.]

[(3)] (2) (a) When providing the division a business location or home street address, a
physical location or street address must be provided.

(b) When providing a mailing address, an applicant, licensee, registrant, or certificate holder may provide a post office box or other mail drop location.

[(4)] (3) Failure to notify the division of a change described in Subsection (1) is separate grounds for disciplinary action against an applicant, licensee, registrant, or certificate holder.

[(5)] (4) An applicant, licensee, registrant, or certificate holder is considered to have received any notification that has been sent to the last address furnished to the division by the applicant, licensee, registrant, or certificate holder.

Section 11. Section 61-2f-401 is amended to read:


The following acts are unlawful and grounds for disciplinary action for a person licensed or required to be licensed under this chapter:

(1) (a) making a substantial misrepresentation, including in a licensure statement;

(b) making an intentional misrepresentation;

(c) pursuing a continued and flagrant course of misrepresentation;

(d) making a false representation or promise through an agent, sales agent, advertising, or otherwise; or

(e) making a false representation or promise of a character likely to influence,

persuade, or induce;

(2) acting for more than one party in a transaction without the informed written consent of the parties;

(3) (a) acting as an associate broker or sales agent while not affiliated with a principal broker;

(b) representing or attempting to represent a principal broker other than the principal broker with whom the person is affiliated; or

(c) representing as sales agent or having a contractual relationship similar to that of sales agent with a person other than a principal broker;

(4) (a) failing, within a reasonable time, to account for or to remit money that belongs to another and comes into the person's possession;

(b) commingling money described in Subsection (4)(a) with the person's own money;
(c) diverting money described in Subsection (4)(a) from the purpose for which the
money is received;
(5) paying or offering to pay valuable consideration to a person not licensed under this
chapter, except that valuable consideration may be shared:
(a) with a principal broker of another jurisdiction; or
(b) as provided under:
(i) Title 16, Chapter 10a, Utah Revised Business Corporation Act;
(ii) Title 16, Chapter 11, Professional Corporation Act; or
(iii) Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as
appropriate pursuant to Section 48-3a-1405;
(6) for a principal broker, paying or offering to pay a sales agent or associate broker
who is not affiliated with the principal broker at the time the sales agent or associate broker
earned the compensation;
(7) being incompetent to act as a principal broker, associate broker, or sales agent in
such manner as to safeguard the interests of the public;
(8) failing to voluntarily furnish a copy of a document to the parties before and after the
execution of a document;
(9) failing to keep and make available for inspection by the division a record of each
transaction, including:
(a) the names of buyers and sellers or lessees and lessors;
(b) the identification of real estate;
(c) the sale or rental price;
(d) money received in trust;
(e) agreements or instructions from buyers and sellers or lessees and lessors; and
(f) any other information required by rule;
(10) failing to disclose, in writing, in the purchase, sale, or rental of real estate, whether
the purchase, sale, or rental is made for that person or for an undisclosed principal;
(11) regardless of whether the crime is related to the business of real estate:
(a) be convicted of:
(i) a felony; or
(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:
   (A) a class A misdemeanor;
   (B) a class B misdemeanor; or
   (C) a criminal offense comparable to a class A or class B misdemeanor;
(b) plead guilty or nolo contendere to:
   (i) a felony; or
   (ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:
      (A) a class A misdemeanor;
      (B) a class B misdemeanor; or
      (C) a criminal offense comparable to a class A or class B misdemeanor;
(c) enter into a plea in abeyance agreement in relation to:
   (i) a felony; or
   (ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:
      (A) a class A misdemeanor;
      (B) a class B misdemeanor; or
      (C) a criminal offense comparable to a class A or class B misdemeanor;
(12) advertising the availability of real estate or the services of a licensee in a false, misleading, or deceptive manner;
(13) in the case of a principal broker or a branch broker, failing to exercise active and reasonable supervision, as the commission may define by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, over the activities of the principal broker's or branch broker's licensed or unlicensed staff;
(14) violating or disregarding:
   (a) this chapter;
   (b) an order of the commission; or
   (c) the rules adopted by the commission and the division;
(15) breaching a fiduciary duty owed by a licensee to the licensee's principal in a real estate transaction;
(16) any other conduct which constitutes dishonest dealing;
(17) having one of the following suspended, revoked, surrendered, or cancelled on the basis of misconduct in a professional capacity that relates to character, honesty, integrity, or
truthfulness:

(a) a real estate license, registration, or certificate issued by another jurisdiction; or
(b) another license, registration, or certificate to engage in an occupation or profession issued by this state or another jurisdiction;

(18) failing to respond to a request by the division in an investigation authorized under this chapter within 10 days after the day on which the request is served, including:
(a) failing to respond to a subpoena;
(b) withholding evidence; or
(c) failing to produce documents or records;

(19) in the case of a dual licensed title licensee as defined in Section 31A-2-402:
(a) providing a title insurance product or service without the approval required by Section 31A-2-405; or
(b) knowingly providing false or misleading information in the statement required by Subsection 31A-2-405(2);

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

(21) (a) engaging in an act of loan modification assistance that requires licensure as a mortgage officer under Chapter 2c, Utah Residential Mortgage Practices and Licensing Act, without being licensed under that chapter;
(b) engaging in an act of foreclosure rescue without entering into a written agreement specifying what one or more acts of foreclosure rescue will be completed;
(c) inducing a person who is at risk of foreclosure to hire the licensee to engage in an act of foreclosure rescue by:
(i) suggesting to the person that the licensee has a special relationship with the person's lender or loan servicer; or
(ii) falsely representing or advertising that the licensee is acting on behalf of:
(A) a government agency;
(B) the person's lender or loan servicer; or
(C) a nonprofit or charitable institution; or
(d) recommending or participating in a foreclosure rescue that requires a person to:
(i) transfer title to real estate to the licensee or to a third-party with whom the licensee
has a business relationship or financial interest;
(ii) make a mortgage payment to a person other than the person's loan servicer; or
(iii) refrain from contacting the person's:
(A) lender;
(B) loan servicer;
(C) attorney;
(D) credit counselor; or
(E) housing counselor;
(22) taking or removing from the premises of a main office or a branch office, or otherwise limiting a real estate brokerage's access to or control over, a record that:
(a) (i) the real estate brokerage's licensed staff, unlicensed staff, or affiliated independent contractor prepared; and
(ii) is related to the business of:
(A) the real estate brokerage; or
(B) an associate broker, a branch broker, or a sales agent of the real estate brokerage; or
(b) is related to the business administration of the real estate brokerage;
(23) as a principal broker, placing a lien on real property, unless authorized by law;
(24) as a sales agent or associate broker, placing a lien on real property for an unpaid commission or other compensation related to real estate brokerage services; or
(25) failing to timely disclose to a buyer or seller an affiliated business arrangement, as defined in Section 31A-23a-1001, in accordance with the federal Real Estate Settlement Procedures Act, 12 U.S.C. Sec. 2601 et seq. and any rules made thereunder.
Section 12. Section 61-2f-402 is amended to read:


(1) The division may conduct a public or private investigation within or outside of this state as the division considers necessary to determine whether a person has violated, is violating, or is about to violate this chapter or any rule or order under this chapter.

(2) To aid in the enforcement of this chapter or in the prescribing of rules and forms under this chapter, the division may require or permit a person to file a statement in writing, under oath or otherwise as to the facts and circumstances concerning the matter to be investigated.
(3) For the purpose of the investigation described in Subsection (1), the division or an employee designated by the division may:

(a) administer an oath or affirmation;

(b) issue a subpoena that requires:

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

(ii) the production of evidence;

(c) take evidence;

(d) require the production of a book, paper, contract, record, other document, or information relevant to the investigation; and

(e) serve a subpoena by certified mail.

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

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

[(5) (a) If a person is found to have violated this chapter or a rule made under this chapter, the person shall pay the costs incurred by the division to copy a book, paper, contract, document, or record required under this chapter, including the costs incurred to copy an electronic book, paper, contract, document, or record in a universally readable format:]

[(b) If a person fails to pay the costs described in Subsection (5)(a) when due, the person's license, certification, or registration is automatically suspended:]

[(i) beginning the day on which the payment of costs is due; and]

[(ii) ending the day on which the costs are paid:]

[(6)] (5) (a) Except as provided in Subsections [(6)] (5)(b) and (c), the division shall commence a disciplinary action under this chapter no later than the earlier of the following:

(i) four years after the day on which the violation is reported to the division; or

(ii) 10 years after the day on which the violation occurred.

(b) Except as provided in Subsection [(6)] (5)(c), the division shall commence a disciplinary action within four years after the day on which a violation occurred, if the violation was of:

(i) Section 61-2f-206;

(ii) Subsection 61-2f-401(8), which prohibits failure to voluntarily furnish a copy of a
document to the parties before and after the execution of a document; or

(iii) Subsection 61-2f-401(18), which prohibits failure to respond to a division request in an investigation within 10 days after the day on which the request is served.

(c) The division may commence a disciplinary action under this chapter after the time period described in Subsection [(6)] (5)(a) or (b) expires if:

(i) (A) the disciplinary action is in response to a civil or criminal judgment or settlement; and

(B) the division initiates the disciplinary action no later than one year after the day on which the judgment is issued or the settlement is final; or

(ii) the division and the person subject to a disciplinary action enter into a written stipulation to extend the time period described in Subsection [(6)] (5)(a) or (b).