

**PROPERTY MANAGER REQUIREMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jordan D. Teuscher**

Senate Sponsor: \_\_\_\_\_

**LONG TITLE**

**General Description:**

This bill modifies the Utah Real Estate Licensing and Practices Act.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ removes provisions requiring an individual engaging in property management to hold a real estate license; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

- 61-2f-102**, as last amended by Laws of Utah 2017, Chapter 182
- 61-2f-103**, as last amended by Laws of Utah 2022, Chapter 204
- 61-2f-201**, as renumbered and amended by Laws of Utah 2010, Chapter 379
- 61-2f-203**, as last amended by Laws of Utah 2022, Chapter 204
- 61-2f-204**, as last amended by Laws of Utah 2022, Chapter 204
- 61-2f-206**, as last amended by Laws of Utah 2022, Chapter 204



28           **61-2f-302**, as last amended by Laws of Utah 2010, Chapter 184 and renumbered and  
29 amended by Laws of Utah 2010, Chapter 379



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

32           Section 1. Section **61-2f-102** is amended to read:

33           **61-2f-102. Definitions.**

34           As used in this chapter:

35           (1) "Associate broker" means an individual who is:

36           (a) employed or engaged as an independent contractor by or on behalf of a principal  
37 broker to perform an act described in Subsection [~~(20)~~] (19) for valuable consideration; and

38           (b) licensed under this chapter as an associate broker.

39           (2) "Branch broker" means an associate broker who manages a principal broker's  
40 branch office under the supervision of the principal broker.

41           (3) "Branch office" means a principal broker's real estate brokerage office that is not  
42 the principal broker's main office.

43           (4) "Business day" means a day other than:

44           (a) a Saturday;

45           (b) a Sunday; or

46           (c) a federal or state holiday.

47           (5) "Business opportunity" means the sale, lease, or exchange of any business that  
48 includes an interest in real estate.

49           (6) "Commission" means the Real Estate Commission established under this chapter.

50           (7) "Concurrence" means the entities given a concurring role must jointly agree for  
51 action to be taken.

52           (8) "Condominium homeowners' association" means the condominium unit owners  
53 acting as a group in accordance with declarations and bylaws.

54           (9) (a) "Condominium hotel" means one or more condominium units that are operated  
55 as a hotel.

56           (b) "Condominium hotel" does not mean a hotel consisting of condominium units, all  
57 of which are owned by a single entity.

58           (10) "Condominium unit" means the same as that term is defined in Section **57-8-3**.

59 (11) "Director" means the director of the Division of Real Estate.

60 (12) "Division" means the Division of Real Estate.

61 ~~[(13) "Dual broker" means a principal broker of a real estate sales brokerage who~~  
62 ~~obtains from the division a dual broker license in order to function as the principal broker of a~~  
63 ~~property management company that is a separate entity from the real estate sales brokerage.]~~

64 ~~[(14)]~~ (13) "Entity" means:

65 (a) a corporation;

66 (b) a partnership;

67 (c) a limited liability company;

68 (d) a company;

69 (e) an association;

70 (f) a joint venture;

71 (g) a business trust;

72 (h) a trust; or

73 (i) any organization similar to an entity described in Subsections ~~[(14)(a)]~~ (13)(a)

74 through (h).

75 ~~[(15)]~~ (14) "Executive director" means the director of the Department of Commerce.

76 ~~[(16)]~~ (15) "Foreclosure rescue" means, for compensation or with the expectation of  
77 receiving valuable consideration, to:

78 (a) engage, or offer to engage, in an act that:

79 (i) the person represents will assist a borrower in preventing a foreclosure; and

80 (ii) relates to a transaction involving the transfer of title to residential real property; or

81 (b) as an employee or agent of another person:

82 (i) solicit, or offer that the other person will engage in an act described in Subsection

83 ~~[(16)(a)]~~ (15)(a); or

84 (ii) negotiate terms in relationship to an act described in Subsection ~~[(16)(a)]~~ (15)(a).

85 ~~[(17)]~~ (16) "Loan modification assistance" means, for compensation or with the  
86 expectation of receiving valuable consideration, to:

87 (a) act, or offer to act, on behalf of a person to:

88 (i) obtain a loan term of a residential mortgage loan that is different from an existing  
89 loan term including:

- 90 (A) an increase or decrease in an interest rate;
- 91 (B) a change to the type of interest rate;
- 92 (C) an increase or decrease in the principal amount of the residential mortgage loan;
- 93 (D) a change in the number of required period payments;
- 94 (E) an addition of collateral;
- 95 (F) a change to, or addition of, a prepayment penalty;
- 96 (G) an addition of a cosigner; or
- 97 (H) a change in persons obligated under the existing residential mortgage loan; or
- 98 (ii) substitute a new residential mortgage loan for an existing residential mortgage loan;

99 or

- 100 (b) as an employee or agent of another person:
  - 101 (i) solicit, or offer that the other person will engage in an act described in Subsection
  - 102 ~~[(17)(a)]~~ (16)(a); or
  - 103 (ii) negotiate terms in relationship to an act described in Subsection ~~[(17)(a)]~~ (16)(a).

104 ~~[(18)]~~ (17) "Main office" means the address which a principal broker designates with  
105 the division as the principal broker's primary brokerage office.

106 ~~[(19)]~~ (18) "Person" means an individual or entity.

107 ~~[(20)]~~ (19) "Principal broker" means an individual who is licensed or required to be  
108 licensed as a principal broker under this chapter who:

109 (a) sells or lists for sale real estate, including real estate being sold as part of a  
110 foreclosure rescue, or a business opportunity with the expectation of receiving valuable  
111 consideration;

112 (b) buys, exchanges, or auctions real estate, an option on real estate, a business  
113 opportunity, or an improvement on real estate with the expectation of receiving valuable  
114 consideration;

115 (c) advertises, offers, attempts, or otherwise holds the individual out to be engaged in  
116 the business described in Subsection ~~[(20)(a)]~~ (19)(a) or (b);

117 (d) is employed by or on behalf of the owner of real estate or by a prospective  
118 purchaser of real estate and performs an act described in Subsection ~~[(20)(a)]~~ (19)(a), whether  
119 the individual's compensation is at a stated salary, a commission basis, upon a salary and  
120 commission basis, or otherwise;

121 (e) with the expectation of receiving valuable consideration, manages property owned  
122 by another person;

123 (f) advertises or otherwise holds the individual out to be engaged in property  
124 management;

125 (g) with the expectation of receiving valuable consideration, assists or directs in the  
126 procurement of prospects for or the negotiation of a transaction listed in Subsections [~~(20)(a)~~]  
127 (19)(a) and (e);

128 (h) except for a mortgage lender, title insurance producer, or an employee of a  
129 mortgage lender or title insurance producer, assists or directs in the closing of a real estate  
130 transaction with the expectation of receiving valuable consideration;

131 (i) engages in foreclosure rescue; or

132 (j) advertises, offers, attempts, or otherwise holds the person out as being engaged in  
133 foreclosure rescue.

134 [~~(21)~~] (20) (a) "Property management" means engaging in, with the expectation of  
135 receiving valuable consideration, the management of real estate owned by another person or  
136 advertising or otherwise claiming to be engaged in property management by:

137 (i) advertising for, arranging, negotiating, offering, or otherwise attempting or  
138 participating in a transaction calculated to secure the rental or leasing of real estate;

139 (ii) collecting, agreeing, offering, or otherwise attempting to collect rent for the real  
140 estate and accounting for and disbursing the money collected; or

141 (iii) authorizing expenditures for repairs to the real estate.

142 (b) "Property management" does not include:

143 (i) hotel or motel management;

144 (ii) rental of tourist accommodations, including hotels, motels, tourist homes,  
145 condominiums, condominium hotels, mobile home park accommodations, campgrounds, or  
146 similar public accommodations for a period of less than 30 consecutive days, and the  
147 management activities associated with these rentals; or

148 (iii) the leasing or management of surface or subsurface minerals or oil and gas  
149 interests, if the leasing or management is separate from a sale or lease of the surface estate.

150 [~~(22)~~ "Property management sales agent" means a sales agent who:]

151 [~~(a) is affiliated with a dual broker through the dual broker's property management~~]

152 company; and]

153 [~~(b)~~ is designated by the dual broker as a property management sales agent.]

154 [~~(23)~~] (21) "Property manager" means an individual who is licensed or required to be  
155 licensed as a property manager under this chapter who:

156 (a) with the expectation of receiving valuable consideration, manages property owned  
157 by another person; or

158 (b) advertises or otherwise holds the individual out to be engaged in property  
159 management.

160 (22) "Real estate" includes leaseholds and business opportunities involving real  
161 property.

162 [~~(24)~~] (23) (a) "Regular salaried employee" means an individual who performs a  
163 service for wages or other remuneration, whose employer withholds federal employment taxes  
164 under a contract of hire, written or oral, express or implied.

165 (b) "Regular salaried employee" does not include an individual who performs services  
166 on a project-by-project basis or on a commission basis.

167 [~~(25)~~] (24) "Reinstatement" means restoring a license that has expired or has been  
168 suspended.

169 [~~(26)~~] (25) "Reissuance" means the process by which a licensee may obtain a license  
170 following revocation of the license.

171 [~~(27)~~] (26) "Renewal" means extending a license for an additional licensing period on  
172 or before the date the license expires.

173 [~~(28)~~] (27) "Sales agent" means an individual who is:

174 (a) affiliated with a principal broker, either as an independent contractor or an  
175 employee as provided in Section 61-2f-303, to perform for valuable consideration an act  
176 described in Subsection [~~(20)~~] (19); and

177 (b) licensed under this chapter as a sales agent.

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

179 **61-2f-103. Real Estate Commission.**

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

181 (2) The commission shall:

182 (a) subject to concurrence by the division and in accordance with Title 63G, Chapter 3,

183 Utah Administrative Rulemaking Act, make rules for the administration of this chapter that are  
184 not inconsistent with this chapter, including:

185 (i) licensing of:

186 (A) a principal broker;

187 (B) an associate broker; ~~and~~

188 (C) a sales agent; and

189 (D) a property manager;

190 (ii) registration of:

191 (A) an entity;

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

193 (C) a branch office; and

194 (D) a property management company;

195 (iii) prelicensing and postlicensing education curricula;

196 (iv) examination procedures;

197 (v) the certification and conduct of:

198 (A) a real estate school;

199 (B) a course provider; or

200 (C) an instructor;

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

202 (vii) brokerage office procedures and recordkeeping requirements;

203 (viii) property management, including rules necessary to create separate regulations for  
204 property management activities;

205 (ix) standards of conduct for a licensee under this chapter;

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

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

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

213 (b) establish, with the concurrence of the division, a fee provided for in this chapter,

214 except a fee imposed under Part 5, Real Estate Education, Research, and Recovery Fund Act;

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

217 (i) licensing of an applicant;

218 (ii) conduct of a licensee;

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

221 (iv) violation of this chapter by any person;

222 (d) with the concurrence of the director, impose a sanction as provided in Section  
223 [61-2f-404](#);

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

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

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

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

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

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

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

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

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

239 (b) Four of the commission members shall:

240 (i) have at least five years' experience in the real estate business; and

241 (ii) hold an active principal broker, associate broker, or sales agent license.

242 (c) One commission member shall be a member of the general public.

243 (d) The governor may not appoint a commission member described in Subsection

244 (4)(b) who, at the time of appointment, resides in the same county in the state as another



245 commission member.

246 (e) At least one commission member described in Subsection (4)(b) shall at the time of  
247 an appointment reside in a county that is not a county of the first or second class.

248 (5) (a) Except as required by Subsection (5)(b), as terms of current commission  
249 members expire, the governor shall appoint each new member or reappointed member to a  
250 four-year term ending June 30.

251 (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the  
252 time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
253 commission members are staggered so that approximately half of the commission is appointed  
254 every two years.

255 (c) Upon the expiration of the term of a member of the commission, the member of the  
256 commission shall continue to hold office until a successor is appointed and qualified.

257 (d) A commission member may not serve more than two consecutive terms.

258 (e) Members of the commission shall annually select one member to serve as chair.

259 (6) When a vacancy occurs in the membership for any reason, the governor, with the  
260 advice and consent of the Senate, shall appoint a replacement for the unexpired term.

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

263 (a) Section [63A-3-106](#);

264 (b) Section [63A-3-107](#); and

265 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and  
266 [63A-3-107](#).

267 (8) (a) The commission shall meet at least monthly.

268 (b) The director may call additional meetings:

269 (i) at the director's discretion;

270 (ii) upon the request of the chair; or

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

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

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

276 Section 3. Section 61-2f-201 is amended to read:

277 **61-2f-201. License required.**

278 (1) Unless a person is licensed under this chapter, it is unlawful for the person to do the  
279 following with respect to real estate located in this state:

- 280 (a) engage in the business of a principal broker, associate broker, or sales agent;
- 281 (b) act in the capacity of a principal broker, associate broker, or sales agent;
- 282 (c) advertise or assume to act as a principal broker, associate broker, or a sales agent.

283 (2) Except as provided in Section 61-2f-202, an individual is required to be licensed as  
284 a principal broker, associate broker, or a sales agent if the individual performs, offers to  
285 perform, or attempts to perform one act for valuable consideration of:

286 (a) buying, selling, [~~leasing, managing,~~] or exchanging real estate for another person;

287 or

288 (b) offering for another person to buy, sell, [~~lease, manage,~~] or exchange real estate.

289 (3) Except as provided in Section 61-2f-202, unless an individual is licensed as a  
290 property manager, an individual may not, for consideration, perform, offer to perform, or  
291 attempt to perform:

292 (a) leasing or managing real estate for another person; or

293 (b) offer for another person to lease or manage real estate.

294 Section 4. Section 61-2f-203 is amended to read:

295 **61-2f-203. Licensing requirements.**

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

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

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

303 (i) a principal broker license;

304 (ii) an associate broker license; [~~or~~]

305 (iii) a sales agent license[~~;~~]; or

306 (iv) a property manager license.

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

310 (d) (i) (A) Except as provided in Subsection (1)(d)(i)(B), the division, with the  
311 concurrence of the commission, shall require an applicant for a sales agent license to complete  
312 a division-approved educational program consisting of not less than 120 hours, as designated  
313 by rule the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative  
314 Rulemaking Act, with the concurrence of the division.

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

320 (ii) (A) Except as provided in Subsection (1)(d)(ii)(B), the division, with the  
321 concurrence of the commission, shall require an applicant for an associate broker or a principal  
322 broker license to complete a division-approved educational program consisting of not less than  
323 120 hours, as designated by rule the commission makes in accordance with Title 63G, Chapter  
324 3, Utah Administrative Rulemaking Act, with the concurrence of the division.

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

331 (iii) Subject to Subsection (5):

332 (A) except as provided in Subsection (1)(d)(iii)(B), the division, with the concurrence  
333 of the commission, shall require an applicant for a property manager license to complete a  
334 division-approved educational program consisting of not less than 24 hours, as designated by  
335 rule the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative  
336 Rulemaking Act, with the concurrence of the division; and

337 (B) if on the day on which an applicant for a property manager license applies for the

338 license the applicant is licensed as a property manager in another state, the division may require  
339 the applicant to complete a division-approved, state-specific educational program consisting of  
340 the number of hours designated by rule the commission makes in accordance with Title 63G,  
341 Chapter 3, Utah Administrative Rulemaking Act, with the concurrence of the division.

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

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

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

349 (A) the fundamentals of the English language;

350 (B) the fundamentals of arithmetic;

351 (C) the fundamentals of bookkeeping;

352 (D) the fundamentals of real estate principles and practices;

353 (E) this chapter;

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

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

356 (ii) If on the day on which an applicant applies for a license the applicant is licensed as  
357 a real estate broker or a sales agent in another state, the division may, with the concurrence of  
358 the commission, require the applicant to pass a division-approved, state-specific examination  
359 rather than the examination required under Subsection (1)(e)(i).

360 (iii) The division, with the concurrence of the commission, may modify the length and  
361 material of an examination for a property manager license under this chapter.

362 (iv) An examination for a property manager license shall:

363 (A) be proportionate to the 24 hours of education required under Subsection (1)(d)(iii);

364 and

365 (B) cover aspects of Utah real estate law considered appropriate and relevant to  
366 property management.

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

369 this state.

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

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

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

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

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

383 (i) complying with this chapter; and

384 (ii) being employed or engaged as an independent contractor by or on behalf of a  
385 principal broker who is licensed in this state, regardless of whether the principal broker is a  
386 resident of this state.

387 (4) The division, with the concurrence of the commission, may enter into a reciprocal  
388 licensing agreement with another jurisdiction for the licensure of a principal broker, an  
389 associate broker, or a sales agent, if the jurisdiction's requirements and standards for the license  
390 are substantially similar to those of this state.

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

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

396 (6) (a) Notwithstanding Subsection (1)(b), the commission may delegate to the division  
397 the authority to:

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

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

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

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

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

408 (7) An individual with an active broker, associate broker, or sales agent license is  
409 exempt from:

410 (a) the education requirement described in Subsection (1)(d)(iii); and

411 (b) an exam required for a property manager license under Subsection (1)(e).

412 Section 5. Section **61-2f-204** is amended to read:

413 **61-2f-204. Licensing fees and procedures -- Renewal fees and procedures.**

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

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

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

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

424 (A) a new sales agent applicant;

425 (B) a principal broker applicant; ~~and~~

426 (C) an associate broker applicant; and

427 (D) a property manager applicant.

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

430 (A) submit to the division fingerprint cards in a form acceptable to the Department of

431 Public Safety;

432 (B) submit to the division a signed waiver in accordance with Subsection  
433 [53-10-108](#)(4), acknowledging the registration of the applicant's fingerprints in the Federal  
434 Bureau of Investigation Next Generation Identification System's Rap Back Service beginning  
435 January 1, 2020;

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

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

439 (iii) The Bureau of Criminal Identification shall:

440 (A) check the fingerprints an applicant submits under Subsection (1)(d)(ii) against the  
441 applicable state, regional, and national criminal records databases, including, beginning  
442 January 1, 2020, the Federal Bureau of Investigation Next Generation Identification System;

443 (B) report the results of the background check to the division;

444 (C) maintain a separate file of fingerprints that applicants submit under Subsection  
445 (1)(d) for search by future submissions to the local and regional criminal records databases,  
446 including latent prints;

447 (D) request that beginning January 1, 2020, the fingerprints be retained in the Federal  
448 Bureau of Investigation Next Generation Identification System's Rap Back Service for search  
449 by future submissions to national criminal records databases, including the Next Generation  
450 Identification System and latent prints; and

451 (E) ensure that the division only receives notifications for an individual with whom the  
452 division maintains permission to receive notifications.

453 (iv) (A) The division shall assess an applicant who submits fingerprints under  
454 Subsection (1)(d) or (2)(f) a fee in an amount that the division sets in accordance with Section  
455 [63J-1-504](#) for services that the division and the Bureau of Criminal Identification or another  
456 authorized agency provide under Subsection (1)(d) or (2)(f).

457 (B) The Bureau of Criminal Identification may collect from the division money for  
458 services provided under this section.

459 (v) Money paid to the division by an applicant for the cost of the criminal background  
460 check is nonlapsing.

461 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

462 and with the concurrence of the division, the commission may make rules for the  
463 administration of this Subsection (1)(d) and Subsection (2)(f) regarding criminal background  
464 checks with ongoing monitoring.

465 (e) (i) A license issued under Subsection (1)(d) is conditional, pending completion of  
466 the criminal background check.

467 (ii) If a criminal background check discloses that an applicant fails to accurately  
468 disclose a criminal history, the division:

469 (A) shall review the application; and

470 (B) in accordance with rules made by the division pursuant to Title 63G, Chapter 3,  
471 Utah Administrative Rulemaking Act, may:

472 (I) place a condition on a license;

473 (II) place a restriction on a license;

474 (III) revoke a license; or

475 (IV) refer the application to the commission for a decision.

476 (iii) (A) A person whose conditional license is conditioned, restricted, or revoked  
477 under Subsection (1)(e)(ii) may have a hearing after the action is taken to challenge the action.

478 (B) The division shall conduct a hearing described in Subsection (1)(e)(iii)(A) in  
479 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

480 (iv) The director shall designate one of the following to act as the presiding officer in a  
481 hearing described in Subsection (1)(e)(iii)(A):

482 (A) the division; or

483 (B) the division with the concurrence of the commission.

484 (v) The presiding officer shall decide whether relief from an action under this  
485 Subsection (1)(e) is granted.

486 (vi) If a license is revoked or a revocation under this Subsection (1)(e) is upheld after a  
487 hearing, the individual may not apply for a new license until at least 12 months after the day on  
488 which the license is revoked.

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

491 (ii) As a condition of renewal, an active licensee shall demonstrate competence by  
492 completing 18 hours of continuing education within a two-year renewal period subject to rules



493 made by the commission, with the concurrence of the division.

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

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

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

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

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

506 (A) military service; or

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

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

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

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

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

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

522 (c) After the 30-day period described in Subsection (2)(b), and until one year after the  
523 day on which an active or inactive license expires, the license may be reinstated by:

524 (i) paying a renewal fee and a late fee determined by the commission with the  
525 concurrence of the division under Section 63J-1-504; and  
526 (ii) providing proof acceptable to the division and the commission of the licensee  
527 having:  
528 (A) completed the hours of education required by Subsection (2)(a); or  
529 (B) demonstrated competence as required under Subsection (2)(a).  
530 (d) The division shall relicense a person who does not renew that person's license  
531 within one year as prescribed for an original application.  
532 (e) Notwithstanding Subsection (2)(a), the division may extend the term of a license  
533 that would expire under Subsection (2)(a) except for the extension if:  
534 (i) (A) the person complies with the requirements of this section to renew the license;  
535 and  
536 (B) the renewal application remains pending at the time of the extension; or  
537 (ii) at the time of the extension, there is pending a disciplinary action under this  
538 chapter.  
539 (f) Beginning January 1, 2020, each applicant for renewal or reinstatement of a license  
540 to practice as a sales agent, principal broker, [or] associate broker or, beginning on May 1,  
541 2024, a property manager, who is not already subject to ongoing monitoring of the individual's  
542 criminal history shall, at the time the application for renewal or reinstatement is filed:  
543 (i) submit fingerprint cards in a form acceptable to the Department of Public Safety;  
544 (ii) submit to the division a signed waiver in accordance with Subsection 53-10-108(4),  
545 acknowledging the registration of the applicant's fingerprints in the Federal Bureau of  
546 Investigation Next Generation Identification System's Rap Back Service;  
547 (iii) consent to a fingerprint background check by the Utah Bureau of Criminal  
548 Identification and the Federal Bureau of Investigation; and  
549 (iv) pay the fee the division establishes in accordance with Subsection (1)(d)(iv).  
550 (3) (a) As a condition for the activation of an inactive license that was in an inactive  
551 status at the time of the licensee's most recent renewal, the licensee shall supply the division  
552 with proof of:  
553 (i) successful completion of the respective sales agent or principal broker licensing  
554 examination within six months before the day on which the licensee applies to activate the

555 license; or

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

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

561 (i) the nature or type of continuing education required for reactivation of a license; and  
562 (ii) how long before reactivation the continuing education must be completed.

563 Section 6. Section **61-2f-206** is amended to read:

564 **61-2f-206. Registration of person or branch office -- Certification of education**  
565 **providers and courses -- Specialized licenses.**

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

568 (b) To register with the division under this Subsection (1), a person shall submit to the  
569 division:

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

571 (ii) subject to Subsection (1)(d), evidence of an affiliation with a principal broker;

572 (iii) evidence that the person is registered and in good standing with the Division of  
573 Corporations and Commercial Code; and

574 (iv) a registration fee established by the commission with the concurrence of the  
575 division under Section [63J-1-504](#).

576 (c) The division may terminate a person's registration if:

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

579 (ii) the person's license with the division has been inactive for at least three years.

580 (d) A person licensed as a property manager is not required to affiliate with a principal  
581 broker.

582 (2) (a) A principal broker shall register with the division each of the principal broker's  
583 branch offices.

584 (b) To register a branch office with the division under this Subsection (2), a principal  
585 broker shall submit to the division:

586 (i) an application in a form required by the division; and  
587 (ii) a registration fee established by the commission with the concurrence of the  
588 division under Section [63J-1-504](#).

589 (3) (a) In accordance with rules made by the commission with the concurrence of the  
590 division and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
591 the division shall certify:

- 592 (i) a real estate school;
- 593 (ii) a course provider; or
- 594 (iii) an instructor.

595 (b) In accordance with rules made by the commission in accordance with Title 63G,  
596 Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division, the  
597 division shall certify a continuing education course that is required under this chapter.

598 (4) Except as provided under this chapter or by rule the commission makes in  
599 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a principal broker  
600 may not be responsible for more than one registered entity at the same time.

601 (5) A principal broker:

602 (a) shall exercise active and reasonable supervision of the principal broker's main  
603 office in accordance with this chapter and rules the commission makes in accordance with Title  
604 63G, Chapter 3, Utah Administrative Rulemaking Act; and

605 (b) may supervise a branch office affiliated with the principal broker at the same time  
606 the principal broker exercises the supervision required under Subsection (5)(a).

607 (6) (a) A principal broker may designate a branch broker to supervise a branch office  
608 affiliated with the principal broker.

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

613 ~~[(7) (a) In addition to issuing a principal broker license, associate broker license, or~~  
614 ~~sales agent license authorizing the performance of an act set forth in Section [61-2f-201](#), the~~  
615 ~~division may issue a specialized sales license or specialized property management license with~~  
616 ~~the scope of practice limited to the specialty.]~~

617 ~~[(b) An individual may hold a specialized license in addition to a license as a principal~~  
 618 ~~broker, associate broker, or a sales agent.]~~

619 ~~[(c) A sales agent who is affiliated with a dual broker may act as a property~~  
 620 ~~management sales agent if:]~~

621 ~~[(i) the dual broker designates the sales agent as a property management sales agent;~~  
 622 ~~and]~~

623 ~~[(ii) the sales agent pays to the division a property management sales agent designation~~  
 624 ~~fee in an amount determined by the division in accordance with Section [63J-1-504](#).]~~

625 ~~[(d) A property management sales agent may simultaneously provide both property~~  
 626 ~~management services and real estate sales services under the supervision of a dual broker as~~  
 627 ~~provided by the commission with the concurrence of the division by rule made in accordance~~  
 628 ~~with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

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

634 ~~[(a) prelicensing and postlicensing education requirements;]~~

635 ~~[(b) examination requirements;]~~

636 ~~[(c) affiliation with real estate brokerages or property management companies;]~~

637 ~~[(d) property management sales agent;]~~

638 ~~[(i) designation procedures;]~~

639 ~~[(ii) allowable scope of practice; and]~~

640 ~~[(iii) division fees;]~~

641 ~~[(e) what constitutes active and reasonable supervision for:]~~

642 ~~[(i) a principal broker when supervising a branch broker or sales agent; and]~~

643 ~~[(ii) a branch broker when supervising a sales agent; and]~~

644 ~~[(f) other licensing procedures.]~~

645 Section 7. Section **61-2f-302** is amended to read:

646 **61-2f-302. Affiliation with a principal broker.**

647 (1) (a) ~~[Am]~~ Subject to Subsection (1)(b), an individual who is not a principal broker

648 may not engage in an act described in Section 61-2f-201 unless the individual is affiliated with  
649 a principal broker as:

650 [~~(a)~~] (i) an associate broker; or

651 [~~(b)~~] (ii) a sales agent.

652 (b) The division may not require an individual licensed as a property manager under  
653 Section 61-2f-201 to affiliate with a principal broker.

654 (2) (a) An inactive associate broker or sales agent may not conduct a real estate  
655 transaction until the inactive associate broker or sales agent becomes affiliated with a principal  
656 broker and submits the required documentation to the division.

657 (b) An inactive principal broker may not conduct a real estate transaction until the  
658 principal broker's license is activated with the division.

659 (3) A sales agent or associate broker may not affiliate with more than one principal  
660 broker at the same time.

661 (4) An individual may not be a principal broker of an entity and a sales agent or  
662 associate broker for a different entity at the same time.

663 (5) An owner, purchaser, lessor, or lessee who engages the services of a principal  
664 broker may designate which sales agents or associate brokers affiliated with that principal  
665 broker will also represent that owner, purchaser, lessor, or lessee in the purchase, sale, lease, or  
666 exchange of real estate, or in exercising an option relating to real estate.

667 Section 8. **Effective date.**

668 This bill takes effect on May 1, 2024.