(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:
[(24)] (25) as a principal broker, placing a lien on real property, unless authorized by law; or
[(25)] (26) 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.
Section 6. Section 61-2g-102 is amended to read:

61-2g-102. Definitions.

(1) As used in this chapter:
(a) (i) "Appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of a specified interest in, or aspect of, identified real estate or identified real property.
(ii) An appraisal is classified by the nature of the assignment as a valuation appraisal, an analysis assignment, or a review assignment in accordance with the following definitions:
(A) "Analysis assignment" means an unbiased analysis, opinion, or conclusion that relates to the nature, quality, or utility of identified real estate or identified real property.
(B) "Review assignment" means an unbiased analysis, opinion, or conclusion that forms an opinion as to the adequacy and appropriateness of a valuation appraisal or an analysis assignment.
(C) "Valuation appraisal" means an unbiased analysis, opinion, or conclusion that estimates the value of an identified parcel of real estate or identified real property at a particular point in time.
(b) "Appraisal Foundation" means the Appraisal Foundation that was incorporated as an Illinois not-for-profit corporation on November 30, 1987.
(c) (i) "Appraisal report" means a communication, written or oral, of an appraisal.

(ii) An appraisal report is classified by the nature of the assignment as a valuation report, analysis report, or review report in accordance with the definitions provided in Subsection (1)(a)(ii).

(iii) The testimony of a person relating to the person's analyses, conclusions, or opinions concerning identified real estate or identified real property is considered to be an oral appraisal report.

(d) "Appraisal Qualification Board" means the Appraisal Qualification Board of the Appraisal Foundation.

(e) "Board" means the Real Estate Appraiser Licensing and Certification Board that is established in Section 61-2g-204.

(f) "Certified appraisal report" means a written or oral appraisal report that is certified by a state-certified general appraiser or state-certified residential appraiser.

(g) "Concurrence" means that the entities that are given a concurring role jointly agree to an action.

(h) (i) (A) "Consultation service" means an engagement to provide a real estate valuation service analysis, opinion, conclusion, or other service that does not fall within the definition of appraisal.

(B) "Consultation service" does not mean a valuation appraisal, analysis assignment, or review assignment.

(ii) Regardless of the intention of the client or employer, if a person prepares an unbiased analysis, opinion, or conclusion, the analysis, opinion, or conclusion is considered to be an appraisal and not a consultation service.

(i) "Contingent fee" means a fee or other form of compensation, payment of which is dependent on or conditioned by:

(i) the reporting of a predetermined analysis, opinion, or conclusion by the person performing the analysis, opinion, or conclusion; or

(ii) achieving a result specified by the person requesting the analysis, opinion, or
(j) "Credential" means a state-issued registration, license, or certification that allows an
individual to perform any act or service that requires licensure or certification under this
chapter.

(k) "Division" means the Division of Real Estate of the Department of Commerce.

(l) "Evaluation" means an opinion on the market value of real property or real estate
that:

(i) is made in accordance with the Interagency Appraisal and Evaluation Guidelines;
and

(ii) is provided to a financial institution for use in a real estate related transaction for
which the regulations of the federal financial institutions regulatory agencies do not require an
appraisal.

[m] "Executive director" means the executive director of the Department of
Commerce.

(n) "Federal financial institutions regulatory agencies" means:

(i) the Board of Governors of the Federal Reserve System;

(ii) the Federal Deposit Insurance Corporation;

(iii) the Office of the Comptroller of the Currency; and

(iv) the National Credit Union Administration.

(o) "Federally related transaction" means a real estate related transaction that is
required by federal law or by federal regulation to be supported by an appraisal prepared by:

(i) a state-licensed appraiser; or

(ii) a state-certified appraiser.

(p) "Financial institution" means an insured:

(i) depository as defined in 12 U.S.C. Sec. 1813(c)(1); or

(ii) credit union as defined in 12 U.S.C. Sec. 1752(7).

(q) "Interagency Appraisal and Evaluation Guidelines" means the guidelines published
as Interagency Appraisal and Evaluation Guidelines, 75 Fed. Reg. 77,450 (Dec. 10, 2010), and
all amendments or updates thereto.  

[(m)] (r) "Real estate" means an identified parcel or tract of land including improvements if any.  

[(o)] (s) "Real estate appraisal activity" means the act or process of making an appraisal of real estate or real property and preparing an appraisal report.  

[(p)] (t) "Real estate related transaction" means:  

(i) the sale, lease, purchase, investment in, or exchange of real property or an interest in real property, or the financing of such a transaction;  

(ii) the refinancing of real property or an interest in real property; or  

(iii) the use of real property or an interest in real property as security for a loan or investment, including mortgage-backed securities.  

[(q)] (u) "Real property" means one or more defined interests, benefits, or rights inherent in the ownership of real estate.  

[(r)] (v) "State-certified general appraiser" means a person who holds a current, valid certification as a state-certified general appraiser issued under this chapter.  

[(s)] (w) "State-certified residential appraiser" means a person who holds a current, valid certification as a state-certified residential real estate appraiser issued under this chapter.  

[(t)] (x) "State-licensed appraiser" means a person who holds a current, valid license as a state-licensed appraiser issued under this chapter.  

[(u)] (y) "Trainee" means an individual who:  

(i) does not hold an appraiser license or appraiser certification issued under this chapter;  

(ii) works under the direct supervision of a state-certified appraiser to earn experience for licensure; and  

(iii) is registered as a trainee under this chapter.  

[(v)] (z) "Unbiased analysis, opinion, or conclusion" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of identified real estate or identified real property that is prepared by a person who is employed or retained to act, or would be
perceived by third parties or the public as acting, as a disinterested third-party in rendering the
analysis, opinion, or conclusion.

(2) (a) If a term not defined in this section is defined by rule, the term shall have the
meaning established by the division by rule made in accordance with Title 63G, Chapter 3,
Utah Administrative Rulemaking Act.

(b) If a term not defined in this section is not defined by rule, the term shall have the
meaning commonly accepted in the business community.

Section 7. Section 61-2g-205 is amended to read:

61-2g-205. Duties of board.

(1) (a) The board shall provide technical assistance to the division relating to real estate
appraisal standards and real estate appraiser qualifications.

(b) The board has the powers and duties listed in this section.

(2) The board shall:

(a) determine the experience and education requirements appropriate for a person
licensed under this chapter;

(b) determine the experience and education requirements appropriate for a person
certified under this chapter:

(i) in compliance with the minimum requirements of Financial Institutions Reform,
Recovery, and Enforcement Act of 1989; and

(ii) consistent with the intent of this chapter;

(c) determine the appraisal related acts that may be performed by:

(i) a trainee on the basis of the trainee's education and experience;

(ii) clerical staff; and

(iii) a person who:

(A) does not hold a license or certification; and

(B) assists an appraiser licensed or certified under this chapter in providing appraisal
services or consultation services;

(d) determine the procedures for a trainee to register and to renew a registration with
the division; and

e) develop one or more programs to upgrade and improve the experience, education, and examinations as required under this chapter.

(3) The experience and education requirements determined by the board for a person licensed or certified under this chapter shall meet or exceed the minimum criteria established by the Appraisal Qualification Board.

(4) The board shall:

(a) determine the continuing education requirements appropriate for the renewal of a license, certification, or registration issued under this chapter that meet or exceed the minimum criteria established by the Appraisal Qualification Board;

(b) develop one or more programs to upgrade and improve continuing education; and

(c) recommend to the division one or more available continuing education courses that meet the requirements of this chapter.

(5) (a) The board shall consider the proper interpretation or explanation of the Uniform Standards of Professional Appraisal Practice as required by Section 61-2g-403 when:

(i) an interpretation or explanation is necessary in the enforcement of this chapter; and

(ii) the Appraisal Standards Board of the Appraisal Foundation has not issued an interpretation or explanation.

(b) If the conditions of Subsection (5)(a) are met, the board shall recommend to the division the appropriate interpretation or explanation that the division should adopt as a rule under this chapter.

(c) (i) The board may by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and Section 61-2g-403, and with the concurrence of the division, provide for an exemption from a provision of the Uniform Standards of Professional Appraisal Practice for:

(A) an activity engaged in on behalf of a governmental entity; or

(B) the act of an individual licensed or certified in accordance with this chapter providing an evaluation.
(ii) In providing an exemption as described in Subsection (5)(c)(i)(B), the board may not exempt an individual from the following provisions of the Uniform Standards of Professional Appraisal Practice:

(A) the Ethics Rule;

(B) the Record Keeping Rule;

(C) the Competency Rule; and

(D) the Scope of Work Rule.

(6) (a) The board shall conduct an administrative hearing, not delegated by the board to an administrative law judge, in connection with a disciplinary proceeding under Section 61-2g-504 concerning:

(i) a person required to be licensed, certified, or registered under this chapter; and

(ii) the person's failure to comply with this chapter and the Uniform Standards of Professional Appraisal Practice as adopted under Section 61-2g-403.

(b) The board, with the concurrence of the division, shall issue in an administrative hearing a decision that contains findings of fact and conclusions of law.

(c) When a determination is made that a person required to be licensed, certified, or registered under this chapter has violated this chapter, the division shall implement disciplinary action determined through concurrence of the board and the division.

(7) A member of the board is immune from a civil action or criminal prosecution for a disciplinary proceeding concerning a person required to be registered, licensed, certified, or approved as an expert under this chapter if the action is taken without malicious intent and in the reasonable belief that the action taken was taken pursuant to the powers and duties vested in a member of the board under this chapter.

(8) (a) The board shall require and pass upon proof necessary to determine the honesty, competency, integrity, truthfulness, and general fitness to command the confidence of the community of an applicant for:

(i) original licensure, certification, or registration; and

(ii) renewal licensure, certification, or registration.
(b) The board may delegate to the division the authority to:

(i) review a class or category of applications for an original or renewed license, certification, or registration;

(ii) determine whether an applicant meets the qualifications for licensure, certification, or registration;

(iii) conduct any necessary hearing on an application for an original or renewed license, certification, or registration; and

(iv) approve, approve with condition or restriction, or deny an application for an original or renewed license, certification, or registration.

(c) Except as provided in Subsections (8)(d) and (e), and in accordance with Title 63G, Chapter 4, Administrative Procedures Act, an applicant who is approved with a condition or restriction or denied licensure, certification, or registration under this chapter may submit a request for agency review to the executive director of the division within 30 days after the day on which the board issues the order approving with a condition or restriction, or denying, the applicant's application.

(d) If the board delegates to the division the authority to approve, approve with a condition or restriction, or deny an application without the concurrence of the board under Subsection (8)(b), and the division approves with a condition or restriction, or denies, an application for licensure, certification, or registration, the applicant may, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, petition the board for a de novo review of the application within 30 days after the day on which the division issues the order approving with a condition or restriction, or denying, the applicant's application.

(e) If the board approves with a condition or restriction, or denies, an applicant's application for licensure, certification, or registration after a de novo review under Subsection (8)(d), the applicant may, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, petition the executive director for review of the board's approval with a condition or restriction, or denial, within 30 days after the day on which the board issues the order approving with a condition or restriction, or denying, the applicant's application.
Section 8. Section 61-2g-301 is amended to read:

61-2g-301. License or certification required.

(1) Except as provided in Subsection (2), it is unlawful for a person to prepare, for valuable consideration, an appraisal, an appraisal report, a certified appraisal report, or perform a consultation service relating to real estate or real property in this state without first being licensed or certified in accordance with this chapter.

(2) This section does not apply to:

(a) a principal broker, associate broker, or sales agent as defined by Section 61-2f-102 licensed by this state who, in the ordinary course of the broker's or sales agent's business, gives an opinion regarding the value of real estate:

(i) to a potential seller or third-party recommending a listing price of real estate; or

(ii) to a potential buyer or third-party recommending a purchase price of real estate;

(b) an employee of a company who states an opinion of value or prepares a report containing value conclusions relating to real estate or real property solely for the company's use;

(c) an official or employee of a government agency while acting solely within the scope of the official's or employee's duties, unless otherwise required by Utah law;

(d) an auditor or accountant who states an opinion of value or prepares a report containing value conclusions relating to real estate or real property while performing an audit;

(e) an individual, except an individual who is required to be licensed or certified under this chapter, who states an opinion about the value of property in which the individual has an ownership interest;

(f) an individual who states an opinion of value if no consideration is paid or agreed to be paid for the opinion and no other party is reasonably expected to rely on the individual's appraisal expertise;

(g) an individual, such as a researcher or a secretary, who does not render significant professional assistance, as defined by the board, in arriving at a real estate appraisal analysis, opinion, or conclusion;
(h) an attorney authorized to practice law in any state who, in the course of the
attorney's practice or tax appeal services, uses an appraisal report governed by this chapter or
who states an opinion of the value of real estate; or

(i) an individual who is not an appraiser who presents or provides a price estimate,
evidence, or property tax information solely for a property tax appeal in accordance with
Section 59-2-1017.

(3) An opinion of value or report containing value conclusions exempt under
Subsection (2) may not be referred to as an appraisal.

(4) Except as provided in Subsection (2), to prepare or cause to be prepared in this state
an appraisal, an appraisal report, or a certified appraisal report, an individual shall:

(a) apply in writing for licensure or certification as provided in this chapter in the form
the division may prescribe; and

(b) become licensed or certified under this chapter.

(5) Subject to rules made in accordance with Section 61-2g-205, a person licensed or
certified under this chapter may provide an evaluation.

Section 9. Section 61-2g-304.5 is amended to read:

61-2g-304.5. Background checks.

(1) An individual applying for licensure, certification, or registration under this chapter
shall, at the time the individual files an application for licensure:

(a) submit to the division, with the individual's application, a fingerprint card in a form
acceptable to the [division; and 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 individual's fingerprints in the Federal Bureau of
Investigation Next Generation Identification System's Rap Back Service beginning January 1,
2020;

[(b)] (c) consent to a criminal background check by:

(i) the Utah Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation[; and]