

West's Utah Code Annotated

Title 61. Securities Division--Real Estate Division

Chapter 2E. Appraisal Management Company Registration and Regulation Act

Part 1. General Provisions

U.C.A. 1953 § 61-2e-101

§ 61-2e-101. Title

Currentness

This chapter is known as the “Appraisal Management Company Registration and Regulation Act.”

Credits

Laws 2009, c. 269, § 2, eff. May 12, 2009.

U.C.A. 1953 § 61-2e-101, UT ST § 61-2e-101

Current with Chapters 3, 4, 9 to 15, 20, 21, 172, 233, 263, 277, 317, 355, 389, 398, 400, 404, 437, 453, 470, 472, and 476, of the 2017 General Session effective through March 14, 2017.

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Title 61. Securities Division--Real Estate Division

Chapter 2E. Appraisal Management Company Registration and Regulation Act

Part 1. General Provisions

U.C.A. 1953 § 61-2e-102

§ 61-2e-102. Definitions

Currentness

As used in this chapter:

(1) “Applicable appraisal standards” means:

(a) the Uniform Standards for Professional Appraisal Practice:

(i) published by the Appraisal Foundation; and

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

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

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

(2) “Appraisal” is as defined in [Section 61-2g-102](#).

(3) “Appraisal foundation” is as defined in [Section 61-2g-102](#).

(4) “Appraisal management company” means an entity that serves as a third-party broker of an appraisal service between a client and an appraiser by:

- (a) administering a network of appraisers to perform real estate appraisal activities for one or more clients;
 - (b)(i) receiving a request for a real estate appraisal activity from a client; and
 - (ii) for a fee paid by the client, entering into an agreement with one or more appraisers to perform the real estate appraisal activity contained in the request; or
 - (c) any other means.
- (5) “Appraisal management service” means a process of:
- (a) receiving a request for the performance of a real estate appraisal activity from a client; and
 - (b) for a fee paid by the client, entering into an agreement with one or more appraisers to perform the real estate appraisal activity contained in the request.
- (6) “Appraisal report” is as defined in [Section 61-2g-102](#).
- (7) “Appraiser” means an individual who engages in a real estate appraisal activity.
- (8) “Appraiser panel” means a group of appraisers that are selected by an appraisal management company to perform real estate appraisal activities for the appraisal management company.
- (9) “Board” means the Real Estate Appraiser Licensing and Certification Board that is created in [Section 61-2g-204](#).
- (10) “Client” means a person that enters into an agreement with an appraisal management company for the performance of a real estate appraisal activity.
- (11) “Concurrence” means that the entities that are given a concurring role must jointly agree before an action may be taken.

(12) “Controlling person” means:

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

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

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

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

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

(13) “Director” means the director of the division.

(14) “Division” means the Division of Real Estate of the Department of Commerce.

(15) “Entity” means:

(a) a corporation;

(b) a partnership;

(c) a sole proprietorship;

(d) a limited liability company;

(e) another business entity; or

(f) a subsidiary or unit of an entity described in Subsections (15)(a) through (e).

(16) “Person” means an individual or an entity.

(17) “Real estate appraisal activity” is as defined in [Section 61-2g-102](#).

Credits

[Laws 2009, c. 269, § 3, eff. May 12, 2009; Laws 2011, c. 289, § 23, eff. May 10, 2011.](#)

U.C.A. 1953 § 61-2e-102, UT ST § 61-2e-102

Current with Chapters 3, 4, 9 to 15, 20, 21, 172, 233, 263, 277, 317, 355, 389, 398, 400, 404, 437, 453, 470, 472, and 476, of the 2017 General Session effective through March 14, 2017.

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U.C.A. 1953 § 61-2e-103

§ 61-2e-103. Rulemaking

Currentness

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules, with the concurrence of the division, that are:

(1) consistent with this chapter; and

(2) necessary to implement this chapter.

Credits

Laws 2009, c. 269, § 4, eff. May 12, 2009; Laws 2011, c. 289, § 24, eff. May 10, 2011.

U.C.A. 1953 § 61-2e-103, UT ST § 61-2e-103

Current with Chapters 3, 4, 9 to 15, 20, 21, 172, 233, 263, 277, 317, 355, 389, 398, 400, 404, 437, 453, 470, 472, and 476, of the 2017 General Session effective through March 14, 2017.

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U.C.A. 1953 § 61-2e-104

§ 61-2e-104. Exemption

Currentness

This chapter does not apply to:

(1) an entity that:

- (a) exclusively employs an individual on an employer-employee basis for the performance of a real estate appraisal activity in the normal course of the entity's business;
- (b) is responsible for ensuring that the real estate appraisal activity being performed by an employee is performed in accordance with applicable appraisal standards; and
- (c) is an appraisal management company that is a subsidiary owned and controlled by a financial institution regulated by a federal financial institution regulatory agency;

(2) an individual who:

- (a) is an appraiser; and
- (b) in the normal course of business enters into an agreement, whether written or otherwise, with another appraiser for the performance of a real estate appraisal activity that the individual cannot complete for any reason, including:
 - (i) competency;

(ii) work load;

(iii) schedule; or

(iv) geographic location; or

(3) an individual who:

(a) in the normal course of business enters into an agreement, whether written or otherwise, with an appraiser for the performance of a real estate appraisal activity; and

(b) under the agreement, cosigns the report of the appraiser performing the real estate appraisal activity upon the completion of the real estate appraisal activity.

Credits

[Laws 2009, c. 269, § 5, eff. May 12, 2009; Laws 2012, c. 166, § 20, eff. May 8, 2012.](#)

U.C.A. 1953 § 61-2e-104, UT ST § 61-2e-104

Current with Chapters 3, 4, 9 to 15, 20, 21, 172, 233, 263, 277, 317, 355, 389, 398, 400, 404, 437, 453, 470, 472, and 476, of the 2017 General Session effective through March 14, 2017.

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KeyCite Red Flag - Severe Negative Treatment

Enacted Legislation Amended by 2017 Utah Laws Ch. 182 (H.B. 196).

[West's Utah Code Annotated](#)

[Title 61. Securities Division--Real Estate Division](#)

[Chapter 2E. Appraisal Management Company Registration and Regulation Act](#)

[Part 2. Registration](#)

U.C.A. 1953 § 61-2e-201

§ 61-2e-201. Registration required--Qualification for registration

[Currentness](#)

(1) Unless exempted under [Section 61-2e-104](#), an appraisal management company is required to register under this chapter if the company:

- (a) contracts with one or more appraisers for the performance of 10 or more appraisals in the state in a calendar year; or
- (b) oversees a network or panel of more than 15 appraisers certified or licensed in the state.

(2) Unless registered under this chapter or exempt under [Section 61-2e-104](#), an entity may not with regard to a real estate appraisal activity for real estate located in this state:

- (a) directly or indirectly engage or attempt to engage in business as an appraisal management company;
- (b) directly or indirectly engage or attempt to perform an appraisal management service; or
- (c) advertise or hold itself out as engaging in or conducting business as an appraisal management company.

(3) To qualify to be registered as an appraisal management company under this chapter:

- (a) each individual who owns, directly or indirectly, more than 10% of the appraisal management company shall:

(i) be of good moral character, as determined by the board; and

(ii) not have had a license or certificate to engage in an act related to a real estate or mortgage transaction refused, denied, canceled, or revoked in this state or in another state; and

(b) the appraisal management company shall designate a main contact for communication between the appraisal management company and either the board or division who:

(i) is a controlling person;

(ii) is of good moral character, as determined by the board; and

(iii) has not had a license or certificate to engage in an act related to a real estate or mortgage transaction refused, denied, canceled, or revoked in this state or in another state.

(4) This section applies without regard to whether the entity uses the term:

(a) “appraisal management company”;

(b) “mortgage technology company”; or

(c) another name.

Credits

[Laws 2009, c. 269, § 6, eff. May 12, 2009; Laws 2012, c. 166, § 21, eff. May 8, 2012.](#)

U.C.A. 1953 § 61-2e-201, UT ST § 61-2e-201

Current with Chapters 3, 4, 9 to 15, 20, 21, 172, 233, 263, 277, 317, 355, 389, 398, 400, 404, 437, 453, 470, 472, and 476, of the 2017 General Session effective through March 14, 2017.

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Part 2. Registration

U.C.A. 1953 § 61-2e-202

§ 61-2e-202. Initial registration process

Currentness

(1)(a) To register under this chapter as an appraisal management company, an entity shall:

(i) file with the division a registration application in a form prescribed by the division;

(ii) pay to the division a fee determined in accordance with [Section 63J-1-504](#);

(iii) if the entity is not a resident of this state, submit an irrevocable consent for service of process meeting the requirements of Subsection (3); and

(iv) have the application for registration approved by the division.

(b) The division shall approve an application if the division finds that the entity:

(i) complies with this Subsection (1); and

(ii) meets the qualifications under [Section 61-2e-201](#).

(c) The division may, upon compliance with Title 63G, Chapter 4, Administrative Procedures Act, deny the issuance of a registration to an applicant on any ground enumerated in this chapter.

(d) If an entity pays a fee or costs to the division with a negotiable instrument or other method that is not honored for payment:

(i) the transaction for which the payment is submitted is voidable by the division;

(ii) the division may reverse the transaction if payment of the applicable fee or costs is not received in full; and

(iii) the entity's registration is automatically suspended:

(A) beginning the day on which the payment is due; and

(B) ending the day on which payment is made in full.

(2) A registration application shall include the following:

(a) the name of the entity seeking registration;

(b) a business address of the entity seeking registration;

(c) telephone contact information of the entity seeking registration;

(d) if the entity is not an entity domiciled in this state, the name and contact information for the entity's agent for service of process in this state;

(e) for each individual who owns 10% or more of the entity:

(i) the individual's name, address, and contact information;

(ii) a statement of whether or not the individual has had a license or certificate to engage in an act related to a real estate or mortgage transaction refused, denied, canceled, or revoked in this state or in another state; and

(iii)(A) fingerprint cards in a form acceptable to the division at the time the registration application is filed; and

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

(f) the name, address, and contact information for each controlling person;

(g) for the controlling person designated as the contact as required by [Section 61-2e-201](#):

(i) a statement of whether or not the individual has had a license or certificate to engage in an act related to a real estate or mortgage transaction refused, denied, canceled, or revoked in this state or in another state; and

(ii)(A) fingerprint cards in a form acceptable to the division at the time the registration application is filed; and

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

(h) provide an explanation required by:

(i) [Section 61-2e-301](#), related to adding an individual to an appraiser panel;

(ii) [Section 61-2e-302](#), related to the review of the work of an appraiser; and

(iii) [Section 61-2e-303](#), related to recordkeeping; and

(i) any other information required by the board.

(3) An irrevocable consent for service of process required to be filed under Subsection (1) shall provide that process may be served on the entity by delivering the process to the director if:

(a) the service of process is for an action:

(i) in a court of this state against an entity; and

(ii) arising out of an act governed by this chapter; and

(b) a plaintiff cannot, in the exercise of due diligence, obtain personal service upon the entity.

Credits

[Laws 2009, c. 269, § 7, eff. May 12, 2009; Laws 2011, c. 289, § 25, eff. May 10, 2011.](#)

U.C.A. 1953 § 61-2e-202, UT ST § 61-2e-202

Current with Chapters 3, 4, 9 to 15, 20, 21, 172, 233, 263, 277, 317, 355, 389, 398, 400, 404, 437, 453, 470, 472, and 476, of the 2017 General Session effective through March 14, 2017.

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U.C.A. 1953 § 61-2e-203

§ 61-2e-203. Criminal background check--Conditional registration--Changes in ownership or controlling person

Currentness

(1) The division shall request the Department of Public Safety to complete a Federal Bureau of Investigation criminal background check for an individual described in Subsection 61-2e-202(2)(e) or (g) through the national criminal history system or any successor system.

(2)(a) The entity filing the application under [Section 61-2e-202](#) shall pay the cost of the criminal background check and the fingerprinting.

(b) Money paid to the division by an entity for the cost of a criminal background check is nonlapsing.

(3)(a) A registration issued under [Section 61-2e-202](#) is conditional, pending completion of a criminal background check.

(b)(i) A registration shall be immediately and automatically revoked if a criminal background check discloses that an individual described in Subsection 61-2e-202(2)(e) or (g) fails to accurately disclose a criminal history involving:

(A) the appraisal industry;

(B) the appraisal management industry; or

(C) a felony conviction on the basis of an allegation of fraud, misrepresentation, or deceit.

(ii) If a criminal background check discloses that an individual described in Subsection 61-2e-202(2)(e) or (g) fails to accurately disclose a criminal history other than that described in Subsection (3)(b)(i), the division shall review the application, and in accordance with rules made by the division pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may:

(A) place a condition on a registration;

(B) place a restriction on a registration;

(C) revoke a registration; or

(D) refer the application to the board for a decision.

(c) An entity whose conditional registration is revoked under Subsection (3)(b)(i) or whose license is conditioned, restricted, or revoked under Subsection (3)(b)(ii) is entitled to a post-revocation hearing conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, to challenge the revocation.

(d) The board shall decide whether relief from the revocation of a registration under this Subsection (3) will be granted, except that relief from an automatic revocation under Subsection (3)(b)(i) may be granted only if:

(i) the criminal history upon which the revocation is based:

(A) did not occur; or

(B) is the criminal history of another individual;

(ii)(A) the revocation is based on a failure to accurately disclose a criminal history; and

(B) the entity has a reasonable good faith belief at the time of application that there is no criminal history to be disclosed; or

(iii) the division fails to follow the prescribed procedure for the revocation.

(e) The board may delegate to the division the authority to conduct a post-revocation hearing under Subsection (3)(d).

(f) If a registration is revoked or a revocation under this Subsection (3) is upheld after a post-revocation hearing, the entity may not apply for a new registration until at least 12 months after the day on which the registration is revoked.

(4)(a) An appraisal management company shall comply with this Subsection (4) if there is a change in:

(i) an individual who owns 10% or more of the entity; or

(ii) the controlling person designated as the contact as required by [Section 61-2e-201](#).

(b) If there is a change in an individual described in Subsection (4)(a), within 30 days of the day on which the change occurs, the appraisal management company shall file with the division:

(i) the individual's name, address, and contact information;

(ii) a statement of whether or not the individual has had a license or certificate to engage in an act related to a real estate or mortgage transaction refused, denied, canceled, or revoked in this state or in another state; and

(iii)(A) fingerprint cards in a form acceptable to the division at the time the registration application is filed; and

(B) consent to a criminal background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

Credits

Laws 2009, c. 269, § 8, eff. May 12, 2009; Laws 2011, c. 289, § 26, eff. May 10, 2011; Laws 2011, c. 342, § 86, eff. May 10, 2011.

§ 61-2e-203. Criminal background check--Conditional..., UT ST § 61-2e-203

U.C.A. 1953 § 61-2e-203, UT ST § 61-2e-203

Current with Chapters 3, 4, 9 to 15, 20, 21, 172, 233, 263, 277, 317, 355, 389, 398, 400, 404, 437, 453, 470, 472, and 476, of the 2017 General Session effective through March 14, 2017.

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U.C.A. 1953 § 61-2e-204

§ 61-2e-204. Renewal of a registration

Currentness

- (1)(a) A registration under this chapter expires two years from the day on which the registration is approved.
- (b) Notwithstanding Subsection (1)(a), the time period of a registration may be extended or shortened by as much as one year to maintain or change a renewal cycle established by rule by the division.
- (2) To renew a registration under this chapter, before the day on which the registration expires, an appraisal management company shall:
- (a) file with the division a renewal registration application on a form prescribed by the division;
 - (b) pay to the division a fee determined in accordance with [Section 63J-1-504](#); and
 - (c) file with the division a certificate evidencing that the appraisal management company has secured and will maintain a surety bond with one or more corporate sureties authorized to do business in the state in the amount of at least \$25,000, as the division provides by rule.
- (3)(a) An appraisal management company's registration is immediately and automatically suspended if:
- (i) the appraisal management company's surety bond lapses or is cancelled during the time period described in Subsection (1); and

(ii) the appraisal management company fails to obtain or reinstate a surety bond within 30 days after the day on which the surety bond lapses or is cancelled.

(b) To reinstate a registration suspended under Subsection (3)(a), the appraisal management company shall provide evidence to the division that the appraisal management company is in compliance with the surety bond requirement described in this section.

(4) A renewal registration application shall include substantially similar information to the information required under [Section 61-2e-202](#), except that for an individual described in Subsection 61-2e-202(2)(e) or (g), the entity is required to report whether the individual has had:

(a)(i) a conviction of a criminal offense;

(ii) the entry of a plea in abeyance to a criminal offense; or

(iii) the potential resolution of a criminal case by:

(A) a diversion agreement; or

(B) another agreement under which a criminal charge is held in suspense for a period of time;

(b) a filing of personal bankruptcy or bankruptcy of a business that transacts the appraisal management services;

(c) the suspension, revocation, surrender, cancellation, or denial of a professional license or certification, whether the license or registration is issued by this state or another jurisdiction; or

(d) the entry of a cease and desist order or a temporary or permanent injunction:

(i) against the individual by a court or government agency; and

(ii) on the basis of:

(A) conduct or a practice involving the business of appraisal management services; or

(B) conduct involving fraud, misrepresentation, or deceit.

(5) A registration expires if it is not renewed on or before its expiration date, except that for a period of one year after the expiration date, the registration may be reinstated upon compliance with this section, including payment of a renewal fee and a late fee determined by the division and the board.

(6) Notwithstanding Subsection (5), the division may extend the term of a license that would expire under Subsection (5) except for the extension if:

(a)(i) the person complies with the requirements of this section to renew the registration; and

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

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

Credits

Laws 2009, c. 269, § 9, eff. May 12, 2009; Laws 2011, c. 289, § 27, eff. May 10, 2011; Laws 2012, c. 166, § 22, eff. May 8, 2012; Laws 2013, c. 292, § 5, eff. May 14, 2013; Laws 2015, c. 262, § 7, eff. May 12, 2015; Laws 2016, c. 384, § 9, eff. May 10, 2016.

U.C.A. 1953 § 61-2e-204, UT ST § 61-2e-204

Current with Chapters 3, 4, 9 to 15, 20, 21, 172, 233, 263, 277, 317, 355, 389, 398, 400, 404, 437, 453, 470, 472, and 476, of the 2017 General Session effective through March 14, 2017.

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Part 3. Operational Requirements

U.C.A. 1953 § 61-2e-301

§ 61-2e-301. Use of licensed or certified appraisers

Currentness

(1) An appraisal management company required to be registered under this chapter may not enter into an agreement with an appraiser for the performance of a real estate appraisal activity unless the appraiser is licensed or certified in good standing pursuant to Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

(2)(a) An appraisal management company required to be registered under this chapter shall have a system to verify that an individual added to the appraiser panel of the appraisal management company holds a license or certificate in good standing in this state pursuant to Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

(b) As part of the registration process under Part 2, Registration, an appraisal management company shall biennially provide an explanation of the system described in Subsection (2)(a) in the form prescribed by the division.

(3) The board, with the concurrence of the division, may establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements regarding when use of a licensed appraiser or certified appraiser is appropriate, including how an assignment is offered to an appraiser.

Credits

Laws 2009, c. 269, § 10, eff. May 12, 2009; Laws 2011, c. 289, § 28, eff. May 10, 2011; Laws 2016, c. 384, § 10, eff. May 10, 2016.

U.C.A. 1953 § 61-2e-301, UT ST § 61-2e-301

Current with Chapters 3, 4, 9 to 15, 20, 21, 172, 233, 263, 277, 317, 355, 389, 398, 400, 404, 437, 453, 470, 472, and 476, of the 2017 General Session effective through March 14, 2017.

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Part 3. Operational Requirements

U.C.A. 1953 § 61-2e-302

§ 61-2e-302. Adherence to standards

Currentness

(1) An appraisal management company required to be registered under this chapter shall have a system in place to review the work of an appraiser who performs a real estate appraisal activity for the appraisal management company on a periodic basis to ensure that a real estate appraisal activity is conducted in accordance with applicable appraisal standards.

(2) As part of the registration process under Part 2, Registration, an appraisal management company shall biennially provide an explanation of the system described in Subsection (1) in the form prescribed by the division.

Credits

Laws 2009, c. 269, § 11, eff. May 12, 2009.

U.C.A. 1953 § 61-2e-302, UT ST § 61-2e-302

Current with Chapters 3, 4, 9 to 15, 20, 21, 172, 233, 263, 277, 317, 355, 389, 398, 400, 404, 437, 453, 470, 472, and 476, of the 2017 General Session effective through March 14, 2017.

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Part 3. Operational Requirements

U.C.A. 1953 § 61-2e-303

§ 61-2e-303. Recordkeeping

Currentness

(1) An appraisal management company required to be registered under this chapter shall:

(a) maintain a detailed record of the following for the same time period an appraiser is required to maintain an appraisal record for the same real estate appraisal activity:

(i) a real estate appraisal activity request that the appraisal management company receives; and

(ii) the appraiser that performs the real estate appraisal activity described in Subsection (1) for the appraisal management company; and

(b) retain for at least five years any file reviewed by the appraisal management company in accordance with [Section 61-2e-302](#) and any documents that relate to the review, including:

(i) the appraisal;

(ii) any documentation of the review; and

(iii) any correspondence that relates to the review.

(2) As part of the registration process under Part 2, Registration, an appraisal management company shall biennially provide an explanation of its recordkeeping described in Subsection (1) in the form prescribed by the division.

Credits

Laws 2009, c. 269, § 12, eff. May 12, 2009; Laws 2015, c. 262, § 8, eff. May 12, 2015.

U.C.A. 1953 § 61-2e-303, UT ST § 61-2e-303

Current with Chapters 3, 4, 9 to 15, 20, 21, 172, 233, 263, 277, 317, 355, 389, 398, 400, 404, 437, 453, 470, 472, and 476, of the 2017 General Session effective through March 14, 2017.

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Chapter 2E. Appraisal Management Company Registration and Regulation Act

Part 3. Operational Requirements

U.C.A. 1953 § 61-2e-304

§ 61-2e-304. Required disclosure--Customary and reasonable compensation

Currentness

(1) Before an appraisal management company may receive money from a client for a real estate appraisal activity requested by the client, the appraisal management company shall disclose to the client the total compensation that the appraisal management company pays to the appraiser who performs the real estate appraisal activity.

(2) An appraisal management company shall compensate an appraiser for an appraisal at a rate that is:

(a) customary and reasonable for an appraisal in the geographic market area of the property being appraised; and

(b) consistent with a presumption of compliance under the Dodd-Frank Wall Street Reform and Consumer Protection Act, [Pub. L. No. 111-203](#), and implementing federal regulations.

(3) The board may, with the concurrence of the division, define by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) the disclosures required to be made by the appraisal management company to the appraiser;

(b) the disclosures required to be made by the appraiser in the appraisal report;

(c) the form and content of the disclosure required by Subsection (1); and

(d) the customary and reasonable compensation required to be paid to appraisers by appraisal management companies.

Credits

Laws 2009, c. 269, § 13, eff. May 12, 2009; Laws 2016, c. 25, § 7, eff. May 10, 2016; Laws 2016, c. 384, § 11, eff. May 10, 2016.

U.C.A. 1953 § 61-2e-304, UT ST § 61-2e-304
Current with Chapters 3, 4, 9 to 15, 20, 21, 172, 233, 263, 277, 317, 355, 389, 398, 400, 404, 437, 453, 470, 472, and 476, of
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Part 3. Operational Requirements

U.C.A. 1953 § 61-2e-305

§ 61-2e-305. Employee requirements

Currentness

(1) Subsection (2) applies to an individual who:

(a)(i) is an employee of an appraisal management company; or

(ii) works on behalf of an appraisal management company; and

(b)(i) selects an appraiser for the performance of a real estate appraisal activity for the appraisal management company; or

(ii) reviews a completed appraisal.

(2)(a) An individual described in Subsection (1) is required to be appropriately trained and qualified in the performance of an appraisal, as determined by rule made by the board, with the concurrence of the division, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) For purposes of an individual described in Subsection (1) who reviews the work of an appraiser, to comply with this Subsection (2), the individual shall demonstrate knowledge of the applicable appraisal standards, as determined by rule made by the board, with the concurrence of the division, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Credits

Laws 2009, c. 269, § 14, eff. May 12, 2009; Laws 2016, c. 25, § 8, eff. May 10, 2016.

§ 61-2e-305. Employee requirements, UT ST § 61-2e-305

U.C.A. 1953 § 61-2e-305, UT ST § 61-2e-305

Current with Chapters 3, 4, 9 to 15, 20, 21, 172, 233, 263, 277, 317, 355, 389, 398, 400, 404, 437, 453, 470, 472, and 476, of the 2017 General Session effective through March 14, 2017.

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Title 61. Securities Division--Real Estate Division

Chapter 2E. Appraisal Management Company Registration and Regulation Act

Part 3. Operational Requirements

U.C.A. 1953 § 61-2e-306

§ 61-2e-306. Removal of appraiser from appraisal panel

Currentness

(1) Except within the first 30 days after the day on which an appraiser is first added to the appraiser panel of an appraisal management company, an appraisal management company may not remove the appraiser from its appraiser panel, or otherwise refuse to assign a request for a real estate appraisal activity to the appraiser without:

(a) notifying the appraiser in writing of:

(i) the reason why the appraiser is being removed from the appraiser panel of the appraisal management company; and

(ii) the nature of the alleged conduct or violation if the appraiser is being removed from the appraiser panel for:

(A) illegal conduct; or

(B) a violation of the applicable appraisal standards; and

(b) providing an opportunity for the appraiser to respond to the notification under Subsection (1)(a).

(2) The board, with the concurrence of the division, may establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements consistent with this section regarding the removal of an appraiser from an appraisal panel.

Credits

Laws 2009, c. 269, § 15, eff. May 12, 2009; Laws 2016, c. 384, § 12, eff. May 10, 2016.

§ 61-2e-306. Removal of appraiser from appraisal panel, UT ST § 61-2e-306

U.C.A. 1953 § 61-2e-306, UT ST § 61-2e-306

Current with Chapters 3, 4, 9 to 15, 20, 21, 172, 233, 263, 277, 317, 355, 389, 398, 400, 404, 437, 453, 470, 472, and 476, of the 2017 General Session effective through March 14, 2017.

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[Title 61. Securities Division--Real Estate Division](#)

[Chapter 2E. Appraisal Management Company Registration and Regulation Act](#)

[Part 3. Operational Requirements](#)

U.C.A. 1953 § 61-2e-307

§ 61-2e-307. Prohibited acts--Exclusions

Currentness

(1) An appraisal management company required to be registered under this chapter and a controlling person, employee, or agent of the appraisal management company may not:

- (a) engage in an act of coercion, extortion, intimidation, or bribery for any purpose related to an appraisal;
- (b) compensate an appraiser in a manner that the person should reasonably know would result in the appraiser not conducting a real estate appraisal activity in a manner consistent with applicable appraisal standards;
- (c) engage in the business of an appraisal management company under an assumed or fictitious name not properly registered in the state;
- (d) accept a contingent fee for performing an appraisal management service if the fee is contingent on:
 - (i) the appraisal report having a predetermined analysis, opinion, or conclusion;
 - (ii) the analysis, opinion, conclusion, or valuation reached in an appraisal report; or
 - (iii) the consequences resulting from the appraisal assignment;
- (e) require an appraiser to indemnify the appraisal management company against liability except liability for errors and

omissions by the appraiser; or

(f) alter, modify, or otherwise change a completed appraisal report submitted by an appraiser.

(2) An appraisal management company required to be registered under this chapter, or a controlling person, employee, or agent of the appraisal management company may not influence or attempt to influence the development, reporting, or review of an appraisal through:

(a) coercion;

(b) extortion;

(c) collusion;

(d) compensation;

(e) instruction;

(f) inducement;

(g) intimidation;

(h) bribery; or

(i) any other manner that would constitute undue influence.

(3) A violation of Subsection (2) includes doing one or more of the following for a purpose listed in Subsection (2):

(a) withholding or threatening to withhold timely payment for an appraisal;

- (b) withholding or threatening to withhold future business for an appraiser;

- (c) taking adverse action or threatening to take adverse action against an appraiser regarding use of the appraiser for a real estate appraisal activity;

- (d) expressly or by implication promising future business or increased compensation for an appraiser;

- (e) conditioning one or more of the following on the opinion, conclusion, or valuation to be reached, or on a preliminary estimate or opinion requested from an appraiser:
 - (i) a request for a real estate appraisal activity; or

 - (ii) the payment of consideration;

- (f) requesting that an appraiser provide at any time before the appraiser's completion of a real estate appraisal activity:
 - (i) an estimated, predetermined, or desired valuation in an appraisal report; or

 - (ii) an estimated value or comparable sale;

- (g) except for a copy of a sales contract for a purchase transaction, providing to an appraiser:
 - (i) an anticipated, estimated, encouraged, or desired value for a subject property; or

 - (ii) a proposed or target amount to be loaned to the borrower;

- (h) providing to an appraiser, or an individual related to the appraiser, stock or other financial or non-financial benefits;

- (i) allowing the removal of an appraiser from an appraiser panel, without prior written notice to the appraiser as required by [Section 61-2e-306](#);

 - (j) obtaining, using, or paying for a subsequent appraisal or ordering an automated valuation model in connection with a mortgage financing transaction unless:
 - (i)(A) there is a reasonable basis to believe that the initial appraisal does not meet applicable appraisal standards; and

 - (B) the reasonable basis is noted in the loan file; or

 - (ii) the subsequent appraisal or automated valuation model is done pursuant to a pre- or post-funding appraisal review or quality control process in accordance with applicable appraisal standards;

 - (k) removing or threatening to remove an appraiser from the appraiser panel if an appraiser requires a reasonable extension of the completion date for an appraisal assignment in order to complete a credible appraisal report; or

 - (l) engaging in any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality.
- (4) This section may not be construed to prohibit an appraisal management company from requesting that an appraiser:
- (a) provide additional information about the basis for a valuation; or

 - (b) correct an objective factual error in an appraisal report.

Credits

[Laws 2009, c. 269, § 16, eff. May 12, 2009](#); [Laws 2011, c. 289, § 29, eff. May 10, 2011](#); [Laws 2012, c. 166, § 23, eff. May 8, 2012](#); [Laws 2016, c. 384, § 13, eff. May 10, 2016](#).

U.C.A. 1953 § 61-2e-307, UT ST § 61-2e-307
Current with Chapters 3, 4, 9 to 15, 20, 21, 172, 233, 263, 277, 317, 355, 389, 398, 400, 404, 437, 453, 470, 472, and 476, of the 2017 General Session effective through March 14, 2017.

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[Part 4. Enforcement](#)

U.C.A. 1953 § 61-2e-401

§ 61-2e-401. Division authority--Immunity

[Currentness](#)

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

(i) 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;

(ii) investigate an entity required to be registered under this chapter, regardless of whether the entity is located in Utah;

(iii) 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

(iv) 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 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.

(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.

Credits

Laws 2009, c. 269, § 17, eff. May 12, 2009; Laws 2011, c. 289, § 30, eff. May 10, 2011; Laws 2012, c. 166, § 24, eff. May 8, 2012; Laws 2016, c. 384, § 14, eff. May 10, 2016.

U.C.A. 1953 § 61-2e-401, UT ST § 61-2e-401

Current with Chapters 3, 4, 9 to 15, 20, 21, 172, 233, 263, 277, 317, 355, 389, 398, 400, 404, 437, 453, 470, 472, and 476, of the 2017 General Session effective through March 14, 2017.

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Title 61. Securities Division--Real Estate Division

Chapter 2E. Appraisal Management Company Registration and Regulation Act

Part 4. Enforcement

U.C.A. 1953 § 61-2e-402

§ 61-2e-402. Enforcement--Immunity for board

Currentness

(1)(a) The board may order disciplinary action, with the concurrence of the division, against:

- (i) an entity registered under this chapter;
- (ii) an entity required to be registered under this chapter; or
- (iii) a controlling person of an entity described in this Subsection (1)(a).

(b) If the board, with the concurrence of the division, makes a finding described in Subsection (2) pursuant to an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the board, with the concurrence of the division, may:

- (i) revoke, suspend, or place an entity's registration on probation;
- (ii) deny an entity's original registration;
- (iii) deny an entity's renewal registration;
- (iv) in the case of denial or revocation of a registration, set a waiting period for an applicant to apply for a registration under this chapter;

(v) order remedial education;

(vi) impose a civil penalty upon a person not to exceed the greater of:

(A) \$5,000 for each violation; or

(B) the amount of any gain or economic benefit from a violation;

(vii) issue a cease and desist order; or

(viii) do a combination of Subsections (1)(b)(i) through (vii).

(2) Subsection (1) applies if the board finds, with the concurrence of the division, that a person has engaged in, is attempting to, or has attempted to engage in:

(a) an act that violates this chapter;

(b) an act that violates a rule made under this chapter;

(c) procuring a registration for the person or another person by fraud, misrepresentation, or deceit;

(d) paying money or attempting to pay money other than a fee provided for by this chapter to an employee of the division to procure a registration under this chapter;

(e) an act or omission in the business of an appraisal management company that constitutes dishonesty, fraud, or misrepresentation;

(f) unprofessional conduct as defined by statute or rule; or

(g) other conduct that constitutes dishonest dealing.

(3)(a) If the board, with the concurrence of the director, issues an order that orders a fine or remedial education as part of a disciplinary action against a person, including a stipulation and order, the board shall state in the order the deadline by which the person shall comply with the fine or remedial education requirements.

(b) If a person fails to comply by the stated deadline, the person's registration shall be immediately and automatically suspended:

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

(ii) ending the day on which the person complies in full with the order.

(c) If a person fails to pay a fine required by an order, the division shall begin a collection process:

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

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

(4) To the extent permitted by federal law, the board, with the concurrence of the division, may bring a disciplinary proceeding under this chapter for a violation of [15 U.S.C. Sec. 1639e\(i\)](#).

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

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

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

Credits

§ 61-2e-402. Enforcement--Immunity for board, UT ST § 61-2e-402

Laws 2009, c. 269, § 18, eff. May 12, 2009; Laws 2011, c. 289, § 31, eff. May 10, 2011; Laws 2012, c. 369, § 39, eff. May 8, 2012.

U.C.A. 1953 § 61-2e-402, UT ST § 61-2e-402

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