

**Division of Real Estate Related Amendments  
Summary of Provisions  
2009 General Session**

| <b>Utah Uniform Land Sales Practice Act: Chapter 57-11</b> |                             |   |   |
|--|-----------------------------|---|---|
| <b><u>Line</u></b>   | <b><u>Section</u></b>       | <b><u>Long Title Provision</u></b>  | <b><u>Explanation</u></b>   |
| 276-278<br>336-339   | 57-11-14<br>and<br>57-11-16 | Increases a civil penalty that the division may impose under the Utah Uniform Land Sales Practices Act; | Each of the Division's licensing groups have higher respective civil disciplinary fine levels, all raised in recent years. These changes bring fines imposed under this Act to the same levels for all DRE groups. Existing fine amounts are also outdated. |
| 262-265  | 57-11-4                     | Addresses exemptions under the Utah Uniform Land Sales Practices Act;                                   | Some individuals who were granted an exemption are still claiming their exemption, though the development fell out of compliance years ago.   |
| <b>Timeshare and Camp Resort Act, Chapter 57-19</b>        |                             |   |   |
| <b><u>Line</u></b>   | <b><u>Section</u></b>       | <b><u>Long Title Provision</u></b>  | <b><u>Explanation</u></b>   |
| 402-409  | 57-19-15                    | Modifies provisions related to registration of a salesperson under the Timeshare and Camp Resort Act;   | In order to make the change from one to two year registrations revenue neutral, the Resort Association agreed to double the statutory fee from \$50 to \$100.   |
| 441-442  | 57-19-16                    | Addresses grounds under which the division may take action under the Timeshare and Camp Resort Act;     | Real estate, mortgage, and appraiser licensees all must abide by both statutory and rulemaking standards of conduct. This change will allow the division to also define standards of conduct for timeshare salespersons.                                    |
| <b>Division of Real Estate, Chapter 61-2</b>               |                             |   |   |
| <b><u>Line</u></b>   | <b><u>Section</u></b>       | <b><u>Long Title Provision</u></b>  | <b><u>Explanation</u></b>   |
| 455-460<br>(prelicense)<br>581 (CE)                        | 61-2-6<br>and<br>61-2-9     | Modifies education requirements for a real estate broker or sales agent;                                | The industry, Real Estate Commission, Division, and Representative Froerer have all expressed an interest in increasing pre-licensing and continuing education hours to improve the professionalism of the real estate industry.                            |
| 584-592  | 61-2-9                      |   | While increasing the hours, the Commission and Division must consider competency-based education and elective courses.  |
| 604-606  | 61-2-9                      |   | Permits the Commission and Division to exempt from CE   |

|   |                       |   |   |
|---|-----------------------|---|---|
|   |                       |   | appointed or elected individuals who spend a substantial amount of time addressing real estate issues in their service.   |
| 518-523   | 61-2-7.2              | Modifies reporting requirements for a real estate broker or sales agent;  | This rule clarifies, as is clarified for mortgage licensees in Chapter 61-2c the types of criminal convictions (already required) they must report.   |
| 540   | 61-2-9                | NONE  | The Real Estate Commission voted earlier this year to require not only out-of-state broker applicants, but also in-state broker applicants to complete a criminal background check.   |
| 630-642   | 61-2-9                | Modifies provisions related to renewal of a real estate license;  | Allows a licensee whose license has been expired for between six and twelve months to reinstate their license if they take additional CE. Currently they must start over after six months.  |
| 698-719   | 61-2-10               | Addresses payments to associate brokers or sales agents;  | Current law prohibits associate brokers and sales agents from receiving compensation from anyone other than their principal broker. Many principal brokers would like to give instructions to a title company to cut the commission check to the associate broker or sales agent. This change allows it, but includes safeguards to protect the principal broker's control. |
| 825-826   | 61-2-11               | Provides for the modification of sanctions for a real estate licensee complying with court ordered restitution; | In addition to the Division's ability to take action under current misrepresentation, dishonesty, and other laws, the Division would like to be able to take action against a licensee who has violated an independent contractor agreement, as evidenced by a final judgment of a court.   |
| 844-845   | 61-2-12               | Addresses what constitutes grounds for disciplinary action;   | In some instances, the Real Estate Commission would like to suspend some of its fines if a disciplined licensee will pay court-ordered restitution to a victim.   |
| 868-869   | 61-2-17               | Clarifies criminal penalties against a person required to be licensed as a real estate licensee;                | This amendment clarifies the existing language. It is current practice.   |
| <b>Real Estate Recovery Fund Act, Chapter 61-2a</b> |                       |   |   |
| <b><u>Line</u></b>                                  | <b><u>Section</u></b> | <b><u>Long Title Provision</u></b>  | <b><u>Explanation</u></b>   |

|   |                         |  |  |
|---|-------------------------|--|--|
| 908-913   | 61-2a-2                 | Provides definitions related to the Real Estate Education, Research, and Recovery Fund, including what constitutes a judgment; | Self-explanatory. The only substantive change here is to clarify that criminal restitution judgments may qualify as claims.  |
| 899<br>958  | 61-2a-2 and<br>61-2a-5  | Increases caps on recovery from the Real Estate Education, Research, and Recovery Fund;  | The cap is low and does not reflect inflation. More victims will possibly be helped through the Fund.  |
| 993-994   | 61-2a-5                 | Clarifies notice requirements for the Real Estate Education, Research, and Recovery Fund;                                      | Most of these changes are technical.<br>The one substantive change is that a person shouldn't be able to make a claim against the Fund if they are a co-conspirator.                       |
| <b>Real Estate Appraiser Licensing and Certification Act, Chapter 61-2b</b> |                         |  |  |
| <b>Line</b>   | <b>Section</b>          | <b>Long Title Provision</b>  | <b>Explanation</b>   |
| 1058  | 61-2b-6                 | Modifies renewal requirements for a license or certificate under appraisal provisions;   | The Appraisal Licensing and Certification Board voted to require appraiser trainees to renew their registration.   |
| 1136-1172   | 61-2b-6                 | Provides for conditional registration of a trainee pending the criminal background check;                                      | The Appraisal Licensing and Certification Board voted to require appraiser trainees to perform background checks when they initially register.   |
| 1206  | 61-2b-8                 | Modifies renewal requirements for a license or certificate under appraisal provisions;   | The Appraisal Licensing and Certification Board voted to require appraiser trainees to perform continuing education, as other appraisers are currently required.                           |
| 1218-1221<br>and<br>1324-1327   | 61-2b-8 and<br>61-2b-27 | Addresses rulemaking of appraisal board related to the Uniform Standards of Professional Appraisal Practice;                   | The Appraisal Licensing and Certification Board needs the ability to exempt selected appraisal related activities from the Uniform Standards of Professional Appraisal Practice.           |
| 1272-1291   | 61-2b-20                | Modifies renewal requirements for a license or certificate under appraisal provisions;   | Allows a licensee whose license has been expired for between six and twelve months to reinstate their license if they take additional CE. Currently they must start over after six months. |
| 1292-1309   | 61-2b-20                | Requires notification of the division of certain events by a person licensed,  | This requires appraisers to notify the Division of criminal convictions, bankruptcy, or licensing action taken against their   |

|   |                |  |   |
|---|----------------|--|---|
|   |                | certified, or registered under appraisal provisions;   | license, as is required for real estate and mortgage licensees.   |
| 1365-1366   | 61-2b-29       | Provides for the modification of sanctions under appraisal provisions for a person complying with court ordered restitution; | In some instances, the Appraiser Licensing and Certification Board would like to suspend some of its fines if a disciplined licensee will pay court-ordered restitution to a victim.  |
| 1413-1414   | 61-2b-33       | Clarifies criminal penalties against a person required to be licensed, certified, or registered under appraisal provisions;  | This amendment clarifies the existing language. It is current practice.   |
| <b>Utah Residential Mortgage Practices Act, Chapter 61-2c</b> |                |  |   |
| <b>Line</b>   | <b>Section</b> | <b>Long Title Provision</b>  | <b>Explanation</b>  |
| 1447  | 61-2c-103      | Modifies provisions related to renewal of a license under the residential mortgage provisions;                               | This modification clarifies the Division's rulemaking authority regarding records.  |
| 1467-1477   | 61-2c-103      | Repeals a requirement that the division by rule provide for certain licensing processes;                                     | This amendment repeals an unnecessary provision enacted last year. I spoke with the Legislative sponsor from last year. She understands SAFE resolved the issue.  |
| 1505-1506   | 61-2c-104      | None   | Provides for a Residential Regulatory Mortgage Commissioner to remain on the Commission until a successor is appointed. This language exists for the Real Estate Commission and the Appraisal Board.  |
| 1642-1647   | 61-2c-205      | Modifies renewal requirements for a license or certificate under mortgage provisions;  | The division frequently extends licenses for individuals who are waiting for a hearing. This allows them the time to continue practicing, while waiting for the hearing. It also allows the division to not grant a full license if a hearing is pending. This change formalizes current Division practice. |
| 1669-1671   | 61-2c-402      | Addresses disposal of records by a residential mortgage licensee;  | This provision will allow the Division to cover the costs of storing, shipping, or destroying records abandoned by a mortgage licensee.   |

|                      |                      |  |  |
|----------------------|----------------------|--|--|
| 1672-1673            | 61-2c-402            | Provides for the modification of sanctions under residential mortgage provisions for a person complying with court ordered restitution;  | In some instances, the Residential Regulatory Mortgage Commission and Division would like to suspend fines if a disciplined licensee will pay court-ordered restitution to a victim. |
| 1677-1678            | 61-2c-405            | Clarifies criminal penalties against a person required to be licensed or certified under residential mortgage provisions;                | This amendment clarifies the existing language. It is current practice.  |
| 1695                 | 61-2c-501            | Provides that criminal restitution judgments may be recovered from the Residential Mortgage Loan Education, Research, and Recovery Fund; | Self-explanatory.  |
| <del>1635-1637</del> | <del>61-2c-503</del> | <del>restricts recovery by a lender from the Residential Mortgage Loan Education, Research, and Recovery Fund;</del>                     | <del>The Fund was intended to help public victims, not lenders.</del><br>THIS PROVISION WAS AMENDED OUT.   |
| 1780-1781            | 61-2c-503            | Modifies notification requirements related to the Residential Mortgage Loan Education, Research, and Recovery Fund;                      | A person shouldn't be able to make a claim against the Fund if they are a co-conspirator.  |
| NA                   | Entire bill          | Makes technical and conforming amendments.   | Most of the bill is made up of cleanup language recommended by legislative attorneys and agreed to by Representative Froerer.  |