

Presented by the
Division of Real Estate

Spring Caravan 2013

Jonathan Stewart

Division Director



Topics

- ▣ House Bill 290
- ▣ House Bill 54
- ▣ Updated Disclosure Questions

House Bill 290

Real Estate Amendments



House Bill 290

Real Estate Amendments

Made changes to:

- ▣ Appraisal Management
- ▣ Mortgage
- ▣ Real Estate
- ▣ Uniform Land Sales Practices

Appraisal Management



House Bill 290

Appraisal Management

- ▣ Change reinstatement period for AMCs from 30 days to one year.

Mortgage



House Bill 290

Mortgage

- ▣ Clarify that a home address provided to and maintained by the Division is not public information, unless no other address is provided.

House Bill 290

Mortgage

- ▣ Authorize the Division to create administrative rules requiring periodic criminal background checks and credit checks.

House Bill 290

Mortgage

- ▣ Clarify that equivalent experience (experience other than origination experience) to become a lending manager will be created through rule.

House Bill 290

Mortgage

- ▣ Require all new Lending Managers to submit to a criminal background check.

House Bill 290

Mortgage

- ▣ Clarify that a Principal Lending Manager cannot also act as a branch manager for the individual's sponsoring entity if the entity operates from more than one location.

Real Estate



House Bill 290

Real Estate

- ▣ Clarify that all licensing fees will be made in accordance with Section 63J-1, Budgetary Procedures Act.

House Bill 290

Real Estate

- ▣ Clarify that all licensing fees will be made in accordance with Section 63J-1, Budgetary Procedures Act.

House Bill 290

Real Estate

- ▣ Establish when the Division may terminate an entity's registration with the Division.
- ▣ Clarify Exemptions for property management.

House Bill 290

Real Estate

- ▣ Clarify who and when someone can sue when there is a commission or compensation dispute.

Uniform Land Sales Practices Act



House Bill 290

- ▣ Update the Uniform Land Sales Practices Act to be consistent with Dodd-Frank.

House Bill 54 Property Tax And Appraiser Amendments



www.SacramentoTaxAppeals.com

Appointing Hearing Officers

- ▣ Allows for the County Board of Equalization to appoint an appraiser as a hearing officer for the purpose of examining an applicant or a witness;

Appointing Hearing Officers

- ▣ After January 1, 2014, a county board of equalization may only appoint an individual as a hearing officer if the individual has completed a course the commission develops.

Hearing Officer Training Course

- ▣ On or before January 1, 2014, the commission shall develop a hearing officer training course that includes training in property valuation and administrative law.

Hearing Officer Training Course

- ▣ The commission may approve a hearing officer training course provided by a county or a private entity if the course includes training in property valuation and administrative law.

Hearing Officer Restriction

- ▣ A county board of equalization may not appoint a person employed by an assessor's office as a hearing officer.

Appeals to County Board of Equalization or Commission

- ▣ In reviewing evidence submitted on behalf of an owner or a county assessor, the board or commission shall consider and weigh:

Reviewing Evidence

- a) The accuracy, reliability, and comparability of the evidence presented by the owner or county assessor;
- b) If submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date;

Reviewing Evidence

- c) If submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time for which and manner in which the property was offered for sale; and
- d) If submitted, other evidence that is relevant to determining the fair market value of the property.

Property Tax Appeal Assistance

Definitions

- ▣ Price Estimate: an estimate of the price that a property would sell for; and that is not an opinion of value.

Property Tax Appeal Assistance

- ▣ Only a person who is a licensed appraiser may present or provide an opinion of value.
- ▣ A licensed appraiser who presents evidence or provides tax information is subject to Sections 61-2g-304, 61-2g-403, 61-2g-406, and 61-2g-407.

Property Tax Appeal Assistance

- ▣ Only a person who is not a licensed appraiser may present or provide a price estimate.
- ▣ A person who is not licensed is subject to 61-2g-407.
- ▣ A person who charges a contingent fee is subject to 61-2g-406.

Property Tax Appeal Assistance

- ▣ A county board of equalization or the commission may evaluate the reliability or accuracy of evidence presented or property tax information provided.

Exemptions

- ▣ A person who is not an appraiser who presents or provides a price estimate, evidence, or property tax information solely for a property tax appeal.

Disclosure Questions



Common Responses

- ▣ I didn't understand the question.
- ▣ It was a mistake.
- ▣ I thought that charge had been expunged.
- ▣ My attorney told me it wouldn't go on my record.
- ▣ I didn't know it was a misdemeanor.

Common Responses

- ▣ I wasn't trying to intentionally mislead you.
- ▣ That happened a long time ago; I didn't know I had to disclose it.
- ▣ I have a license in another state and I didn't have to disclose it there.
- ▣ I was told that anything over ten years old did not have to be disclosed.

Disclosure Questions

1. Are you at least 18 years of age?
2. Do you attest that you have a high school diploma or GED?

Disclosure Questions

3. Since your last renewal, have you had a professional or occupational credential (license, registration, certification, or similar authorization to work in a professional or occupational capacity) denied, revoked, or suspended?

Disclosure Questions

4. Since your last renewal, have you had a professional or occupational credential (license, registration, certification, or similar authorization to work in a professional or occupational capacity) sanctioned? Sanctions include, but are not limited to, having a credential restricted, limited, placed on probation, being required to pay a fine or penalty, take education, or comply with any other condition.

Disclosure Questions

5. Since your last renewal, have you been sanctioned or banned from engaging in any activity by Freddie Mac, Fannie Mae, FHA (HUD), VA, or similar organization for any period of time or for any reason?
6. Since your last renewal, have you been ordered to cease and desist from any conduct related to a professional or occupational credential (license, registration, certification, or similar authorization to work in a professional or occupational capacity?

Disclosure Questions

7. Since your last renewal, have you allowed a professional or occupational credential (license, registration, certification, or similar authorization to work in a professional or occupational capacity) to expire or lapse while you were under investigation by a regulatory or licensing body, or while a regulatory action was pending against you?

Disclosure Questions

8. Do you have knowledge of any complaint, investigation, or disciplinary action CURRENTLY ongoing or pending against you by a regulatory or licensing body?

Disclosure Questions

9. Since your last renewal, have you been convicted of, or pled guilty or nolo contendere to a felony, class A misdemeanor, class B misdemeanor, or comparable criminal offense? A traffic offense can be prosecuted as a felony, class A misdemeanor, class B misdemeanor, or comparable criminal offense. Where this is the case, disclosure is required.

Disclosure Questions

10. Since your last renewal, have you resolved a felony, class A misdemeanor, class B misdemeanor, or comparable criminal offense through a plea in abeyance, diversion agreement, withheld judgment, or other method whereby a charge was held in suspense during a period of time in which you were on probation or were obligated to comply with conditions outlined by a court? A traffic offense can be prosecuted as a felony, class A misdemeanor, class B misdemeanor, or comparable criminal offense. Where this is the case, disclosure is required.

Disclosure Questions

11. Currently, are you aware of any investigation(s), indictment(s), or criminal charge(s) for any crime in any jurisdiction which are pending against you?
12. Since your last renewal, have you been courts martial or discharged other than honorably from any branch of the armed services?

Disclosure Questions

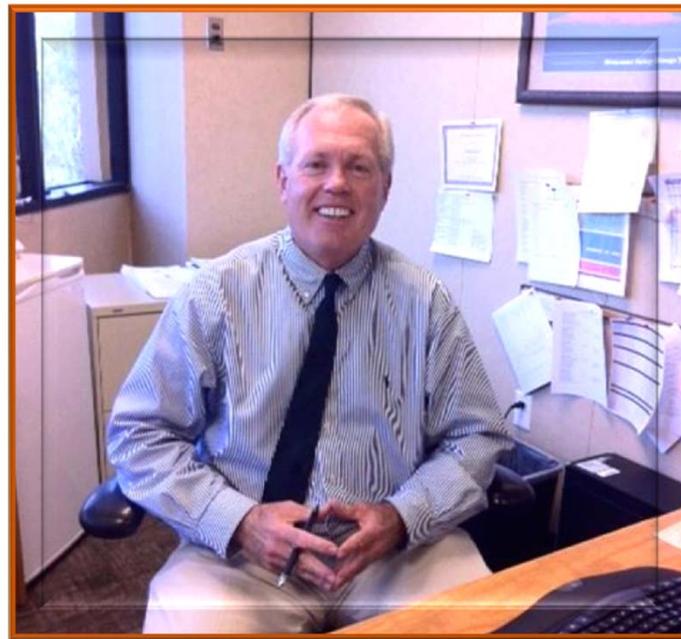
13. Since your last renewal, have you been required to register as a sex offender?
14. Since your last renewal, have you had a judgment entered against you in a civil court or in a bankruptcy court on the basis of fraud, misrepresentation, or deceit, or in any matter related to the purchase, sale, management, finance, loan origination, or valuation of real estate?

Disclosure Questions

15. Since your last renewal, have you been found in contempt of court?

Mark Fagergren

Licensing/Education Director



Real Estate



Real Estate Brokerage



Real Estate Brokerage



Principal broker over one brokerage at a time

Principal broker supervise licensed and unlicensed staff

Branch offices – same name

Branch must have Branch broker to supervise licensed and unlicensed staff

Real Estate Trust Account

No more than six units (Property Management)

Seven or more units (Property Management Trust Account)

Real Estate Brokerage



Unlicensed Personal Assistants



Principal broker must give permission before employing



Supervised by licensee and broker and can not do activities requiring license



Clerical duties, appointments initiated by prospect only.
No soliciting



At open house distribute literature only (with licensee present)



Act as a courier

Real Estate Brokerage



Unlicensed Personal Assistants



Place broker signs on listed properties



Have keys made



Secure records from recorder's, zoning offices, etc.



Compensated by predetermined rate
Not contingent on real estate transactions
No commission sharing or fee splitting

Property Management Brokerage



Property Management Brokerage

No real estate sales activities



All activities done under name of brokerage

Branch activities supervised by branch broker

Property Management Brokerage

Unlicensed Personal Assistants



Under supervision of Principal Broker



Provide prospective tenant access to unit



Secretarial, bookkeeping, maintenance, or rent collection services



Quote rent and lease terms



Complete pre-printed lease or rental agreements

Specialized Licenses

(Dual Broker)

Except by rule, a principal broker may not be responsible for more than one registered entity at a time.

The Division MAY issue a specialized sales license or property management license with practice limited to the specialty.

An individual may hold a specialized license in addition to a license as a principal broker, associate broker, or a sales agent.

Dual brokers may be the principal broker of a real estate brokerage and a property management brokerage

The dual broker is prohibited from operating two real estate brokerages

Dual Broker



Real Estate Brokerage and
Property Management Brokerage
with different names

One principal broker oversees
both companies

Licensees affiliated with real
estate office can perform
both real estate and property
management activities

Licensees affiliated with property
management brokerage are
restricted to property
management functions.



RE Brokerage

One broker

One brokerage

PB supervise all activities/staff

Branches under same name

Branch broker supervise activities/staff

Trust accounts



PM Brokerage

One broker

One brokerage

Broker supervise all activities/staff

Branches under same name

Branch broker supervise activities/staff

Trust accounts



RE Brokerage

One broker

One brokerage

PB supervise all activities/staff

Branches under same name

Branch broker supervise activities/staff

Trust accounts



PM Brokerage

One broker

One brokerage

Broker supervise all activities/staff

Branches under same name

Branch broker supervise

activities/staff

Trust accounts

No RE Activities

Must convert to real estate

brokerage or

branch by 5/8/2018



RE Brokerage

- One broker
- One brokerage
- PB supervise all activities/staff
- Branches under same name
- Branch broker supervise activities/staff
- Trust accounts



PM Brokerage

- One broker
- One brokerage
- Broker supervise all activities/staff
- Branches under same name
- Branch broker supervise activities/staff
- Trust accounts
- No RE Activities
- Must convert to real estate brokerage or branch by 5/8/2018



Dual Brokerage

- 2 companies with 2 names
- One PB for both brokerages
- RE brokerage licensees perform both RE and PM duties
- PM brokerage licensees only PM activities

New Property Management Rules

- Dual brokers continue to operate one real estate brokerage and one property management brokerage
- No real estate activities from property management brokerage
- Existing dual brokers may consolidate the two brokerages into a single real estate brokerage

New Property Management Rules

- The real estate brokerage can convert the property management brokerage into a branch office of the real estate brokerage (same name) with a branch broker to oversee branch activities
- Exclusive property management brokerages must convert to a real estate brokerage (exclusive property management brokerages will be eliminated as of 5/8/2013)

New Property Management Rules

- Compensation to UPA or current tenants– Up to \$200 per lease in retaining or securing a tenant
- RE unsolicited referral up to \$150.
- Principal and branch brokers must implement training and continue to supervise UPAs, sales agents, and associates on tasks under new rules.

Unlicensed Personal Assistants



Real Estate Brokerage

- Supervised by licensee
- Clerical duties initiated by prospect
- At open house distribute literature only
- Act as a courier
- Place signs on property
- Have keys may
- Obtain records
- Paid by predetermined rate

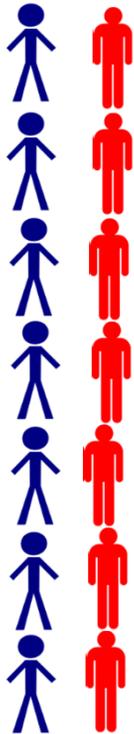


Property Management Brokerage

- Provide prospective tenant access to unit
- Secretarial, bookkeeping, maintenance, or rent collection services
- Quote rent and lease terms
- Complete lease or rental agreements

Under New Rules: Unlicensed Personal Assistants

Property Management Functions



- ❖ Provide prospective tenant access to unit
- ❖ Provide secretarial, bookkeeping, maintenance, or rent collection services
- ❖ Quote predetermined rent and lease terms
- ❖ Complete lease or rental agreements
- ❖ Serve or receive legal notices
- ❖ Address complaints
- ❖ Inspect units

RELMS Updates



Division of Real Estate

License Management System

Welcome to the Division of Real Estate's
Online License Management System

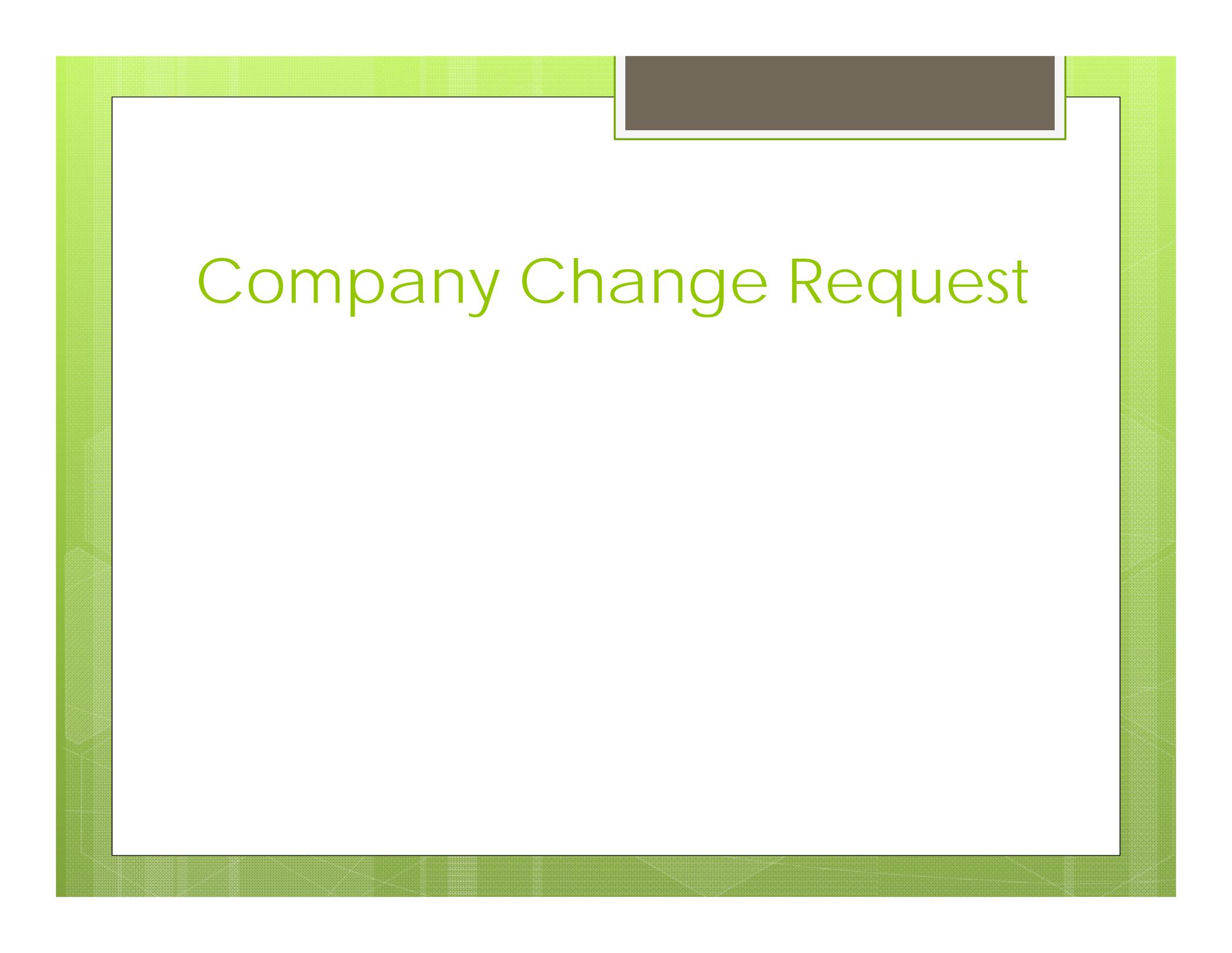
This system currently allows **real estate agents, brokers and appraisers** to use the following online services depending on their license type.

Login

Username:

Password:





Company Change Request

Step 3. Wait for Response

Step 1. Identify New Affiliation

Step 2. Notify Companies

Step 3. Wait for Response

Current Affiliation: PENDING

Company	Test Company
Company License #	8454051-CN00
Address	160 E 300 S
City, State, Zip	Salt Lake City, UT 84111
Telephone	
Broker	Testy Tester
Broker License #	8441539-PB00

Note: If your current Broker is unable to acknowledge this change request, you have the option to send a certified letter as notification. Please enter the certified mail receipt number and press the Record Acknowledgment button.

You must have sent a letter through Certified Mail advising them of this request. A copy of the letter and proof of mailing by certified mail must be retained and available for division audit if requested R162-3.2

Certified Mail Return Receipt
Number:

Record Acknowledgment

New Affiliation: PENDING

Company	BERE REGIS REALTY
Company License #	5453228-CN00
Address	5 S 500 W UNIT 1214
City, State, Zip	Salt Lake City, UT 84101
Telephone	8015321424
Broker	Janet Carolyn Gezon
Broker License #	5453228-PB00

An email has been sent to the Brokers explaining that this change will be effective after the Brokers from both companies log into RELMS and approve/acknowledge the requested change. Brokers have 10 days to respond to this affiliation request. After 10 days you will need to resubmit a new change request. If the Brokers have any questions, please print and provide these instructions: [Instructions for Brokers](#).

Please allow one business day for the system to update once a change has been approved.

The Tracking Number associated with this change request is:

Home

Cancel Request



Division of Real Estate License Management System

[My Account](#) [Logout](#)

Attention

The brokers from both companies have not logged in to RELMS and approved/acknowledged the requested change within the 10 day period. If you'd like to resubmit a new change request please use the Cancel Request button at the bottom of this page and then select the Change Your Affiliation link on your home page.

Step 3. Wait for Response

- Step 1. Identify New Affiliation
- Step 2. Notify Companies
- Step 3. Wait for Response**

Current Affiliation: **PENDING**

Company	Test Company
Company License #	8454051-CN00
Address	160 E 300 S
City, State, Zip	Salt Lake City, UT 84111
Telephone	
Broker	Testy Tester
Broker License #	8441539-PB00

Note: If your current Broker is unable to acknowledge this change request, you have the option to send a certified letter as notification. Please enter the certified mail receipt number and press the Record Acknowledgment button.

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Certified Mail Return Receipt Number:

New Affiliation: **PENDING**

Company	BERE REGIS REALTY
Company License #	5453229-CN00

Both brokers pending.

Will remain for 10 days.



Division of Real Estate License Management System

Home » View CE Courses

My Account Logout

Sales Agents and Brokers must have completed 18 hours of certified Continuing Education since your last license renewal.

- Individuals licensed after July 1, 2007 will be required to complete 18 hours including a 12-hour "New Sales Agent Course" to renew their license. Approved providers of this course can be found [here](#).
- Renewal of an active license requires 18 hours of Continuing Education with a minimum of 9 hours from certified "Core Topic Courses". Certified "Core Topic Courses" are listed [here](#).
- Hours in current cycle that have been used for license activation may not be used for renewal.

Current CE

The following records have been submitted by your education provider:

Certification	Course Title	Date	Credits
RA120834	NEW AGENT 12 HOUR RENEWAL COURSE (CORE)	Mar 31, 2013	12
RC110853	DRE NON-CERTIFIED CORE	Mar 25, 2013	18
Total Credits:			30

Past CE

The following records were used in previous renewal cycles:

Certification	Course Title	Date	Credits
Total Credits:			

A section for the current and a section for the past continuing education.



Division of Real Estate License Management System

[Home](#)

[My Account](#) [Logout](#)

Manage License

You are currently managing license no:

Address

Name	Test Record
Address of Record	1234 Test Ave Change Address
City, State, Zip	Beverly Hills, CA 90210
Telephone	4355746413
Email	crice@utahinteractive.org

License Details

License #	3072216-SA00	Print License Order Duplicate License
Profession	Real Estate Agents/Companies	View and Order License History
License Type	Sales Agent	View CE Courses Completed
License Status	PENDING CHANGE TO INACTIVE	Inactivate License
License Expires	Apr 30, 2013	Renew License

Affiliation

[Change Your Affiliation/View Pending Change](#)

Company	Test Company
Company License #	8454051-CN00
Address	160 E 300 S
City, State, Zip	Salt Lake City, UT 84111
Telephone	
Broker	Testy Tester
Broker License #	8441539-PB00

From: Realestate@utah.gov

Date: Thu, 11 April 2013

To: Licensee

Subject: License Renewed

The following license has been renewed with the Utah Division of Real Estate:

Licensee: Licensee Name

License Number: 3072216-SA00

Renewed on: 04/11/2013

Your license certificate is attached. You may also go to <https://secure.utah.gov/relms> to print your license.

This renewal will be reflected in the online system within two business days.

Sincerely,

Utah Division of Real Estate

STATE OF UTAH
 DEPARTMENT OF COMMERCE
 DIVISION OF REAL ESTATE
 ACTIVE LICENSE

Sales Agent  3072216-SA00

TEST RECORD

DATE ISSUED	NAME OF HOLDER	EXPIRATION
02/20/2008		04/30/2013

→ Wallet license

- Your license is valid until the expiration date listed on this form.
- Below is your public address of record for the division. All correspondence will be mailed to this address. It is your responsibility to notify us directly if your address changes.
- All Continuing Education must be completed by the 15th of the month of expiration in order to ensure a timely renewal.
- Please visit our web site at www.realestate.utah.gov should you have any questions in the future.

Be sure to create an account on our website in RELMS



→ Cut for wall license

STATE OF UTAH
 DEPARTMENT OF COMMERCE
 DIVISION OF REAL ESTATE
 ACTIVE LICENSE

DATE ISSUED: 02/20/2008

EXPIRATION DATE: 04/30/2013

LICENSE NUMBER: 3072216-SA00

LICENSE TYPE: Sales Agent

ISSUED TO: TEST RECORD
 1234 TEST AVE



SIGNATURE OF HOLDER _____


 REAL ESTATE DIVISION DIRECTOR

Form #2

Licensees can print their own!

Upcoming Changes

- Eliminate delay when going from RELMS to License Renewal module
- Appraisers – distinguish between different 7-hour USPAP update courses (i.e. 2012-2013, 2013-2014)
- Trainee access to RELMS
- Remove social security and driver license information in license renewal module
- Display and print in RELMS all payments made to the DRE
- Mortgage licensees enabled to print licenses by 12/31/2013

Appraisers





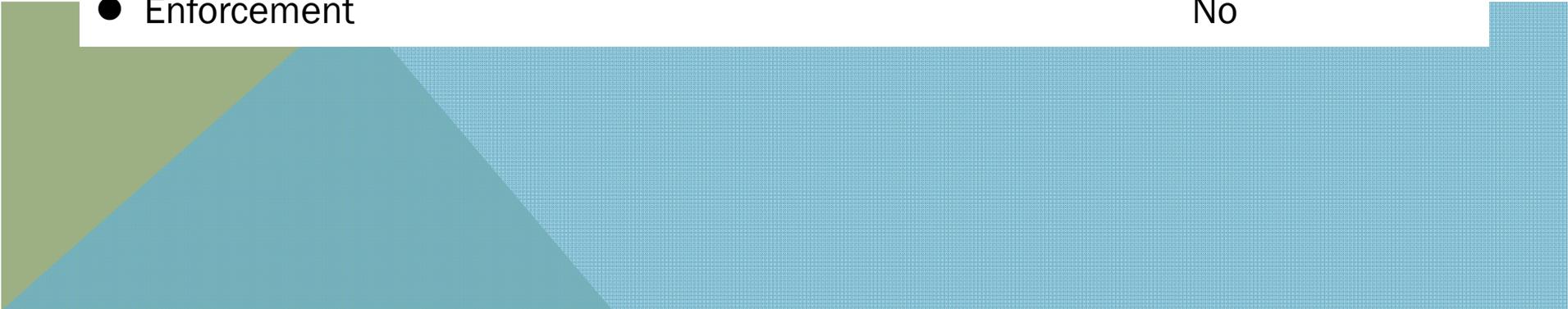
**APPRAISAL
SUBCOMMITTEE AUDIT
FINDINGS**

FEBRUARY 25 - 27, 2013

APPRAISAL SUBCOMMITTEE AUDIT

The findings for each of the seven areas are as follows:

	Compliance (Yes/No)
● Utah Statutes, Regulations, Policies and Procedures	Yes
● Temporary Practice	Yes
● National Registry	Yes
● Application Process	Yes
● Reciprocity	Yes
● Education	Yes
● Enforcement	No



EDUCATION PROCESSING

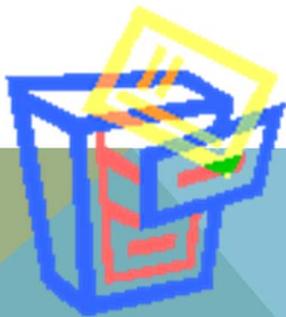
- ✓ In compliance with one “anomaly”

No longer allowed to provide appraiser continuing education credit for attendance at annual Instructor Development Workshop



NATIONAL REGISTRY

✓ In compliance



APPLICATION PROCESSING – INITIAL, RENEWAL, AND UPGRADES

✓ In Compliance

Very thorough (Carla)



RECIPROCAL LICENSING

Utah License Application

Pending Regulatory Investigation

- Reviewed by enforcement
 - Allowed to be licensed

Washington State Reciprocal License Application

Pending Regulatory Investigation

- Placed on list for board to decide
 - Board required temporary permit after “resolution”
 - Reciprocal Application



RECIPROCAL LICENSING

Utah must have a “consistent process”

Concern over due process rights and
burden of proof issues



TEMPORARY PRACTICE PERMITS

Disclosure questions on application

"Have you EVER..."



**STATUTES & ADMINISTRATIVE
RULES**

STATUTES REQUIRED BY JANUARY 1, 2015

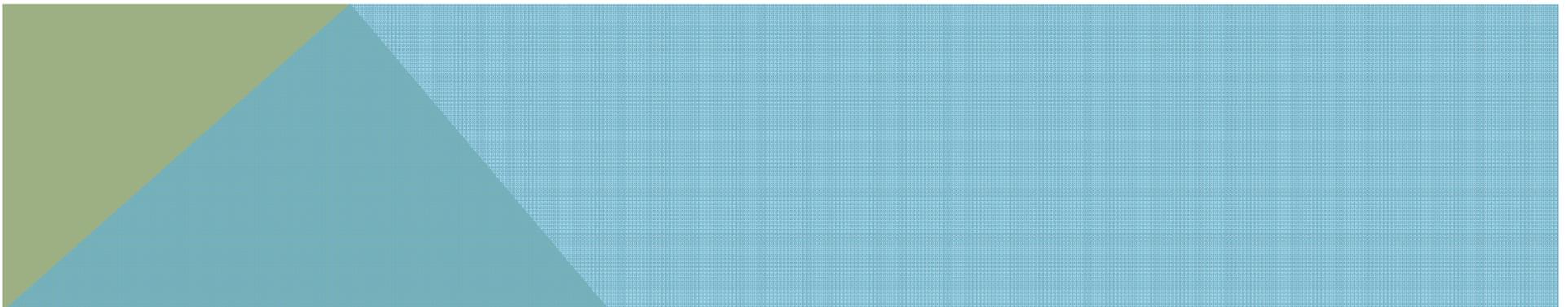
EXISTING STATUTE

Reciprocal licensure. 61.2g-310(2)

....if, in the the determination of the division and the board: (2) the laws of that state, territory, or the District of Columbia **accord substantially equal reciprocal rights** to a person licensed or certified and in good standing in this state; and...

NEW LANGUAGE REQUIRED

(2) The appraiser holds a valid certification from a State whose requirements for certification or licensing meet or exceed the licensure standards established by the State where an individual seeks appraisal licensure.



STATUTES REQUIRED BY JANUARY 1, 2015

Background Checks for License Upgrades

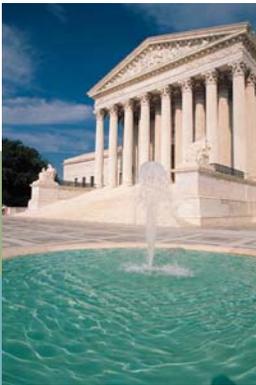
- All new credentials must have a criminal background check
- No license if revoked in any jurisdiction within the past five year period
- No license if convicted or plead nolo contendere to a felony within the past five year period.



STATUTORY CHANGES REQUIRED

(2014 LEGISLATIVE SESSION)

- College level education will be required for all licensed appraisers – 30 semester credit hours from a college or university OR an associate’s degree or higher in any field
- College level education will be required for all certified residential appraiser-bachelor’s degree or higher in any field from an accredited college or university
- Trainee appraiser and supervisory appraiser course (required attendance) will be implemented with specification for course content by the AQB



RULES THAT REQUIRE A CHANGE

Non-Certified Continuing Education

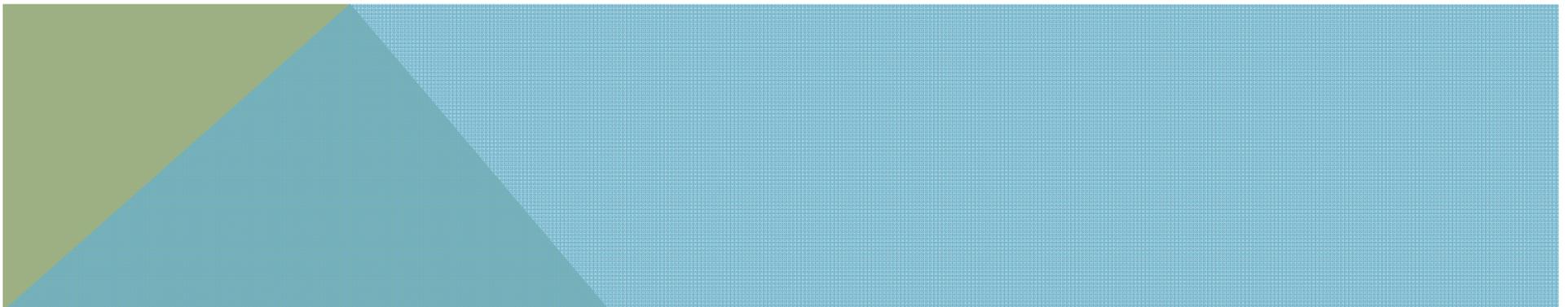
EXISTING LANGUAGE

R162-2g_307(c)(4)(a)

- (4) Non-certified continuing education credit. Except as provided in Subsection R162-2f-307c(1), the board may award continuing education credit on a case-by-case basis for the following:
 - (a) Participation, other than as a student, in an appraisal practicum course;

REQUIRED CHANGE

There need not be a client in a traditional sense (i.e. a practicum course or client hiring an appraiser for a business purpose) in order for an appraisal to qualify for experience, but experience gained for work without a traditional client cannot exceed 50% of the total experience requirement.



RULES THAT REQUIRE A CHANGE

Supervisor Appraisers Must...

- Have been state-certified for a minimum of three years prior to being eligible
- Comply with the competency rule of USPAP for the property type and geographical location the trainee appraiser is being supervised.
- Attend a supervisor/trainee course following AQB content outline
 - After 1/1/15 cannot count experience without having taken the supervisor/trainee course
- Disciplined appraisers prohibited from supervising
 - Discipline means any restriction or limitation on the supervisor's license
 - Must wait for three years before he/she can supervise any trainees.



RULES THAT REQUIRE A CHANGE

Supervisor/Trainee Course

- AQB Course Outline
- 4 Hour Course
 - Who filled out the experience log?
 - Filling out the experience log and the actual time taken. (One residential appraisal = five hours.)
 - The supervisor needs to stress USPAP components.
 - Ownership history, Utah state-specific rules and a history of listings
 - Reconciliation (what and how)
 - Analysis (what and how)
 - Language on licensing information in signature boxes and on work products
 - What should be included in a work file

Continued...



RULES THAT REQUIRE A CHANGE

Supervisor/Trainee Course

- Although most trainees only use the 1004 basic family form, they need to be familiar with other forms (and their proper use) and how to complete these forms
- Market conditions form not transferred to the grid
- Seeking the AMC's and underwriter's approval
- Making clear explanations on what was done
- Don't forget the qualifying education courses and what you learned
- Summary and/or course quiz
- Train on principles not just on rules
- Recommendation for trainees to take the 15 hours USPAP course **BEFORE** taking this course



MANY 1/1/15 REQUIREMENTS ALREADY IMPLEMENTED IN UTAH

- ✓ Qualifying education and experience MUST be completed before sitting for the exam
- ✓ The “segmented approach” for completing and satisfying licensing criteria has been eliminated
- ✓ Appraisers are restricted from receiving credit for completing the same continuing education course more than once within a two-year licensing cycle
- ✓ Certified General appraiser candidates are required to hold a bachelor’s degree or higher in any field from an accredited college or university
- ✓ Trainee qualifying education must be completed within the five (5) year period prior to the date of application for a trainee appraiser credential



Continued....

MANY 1/1/15 REQUIREMENTS ALREADY IMPLEMENTED IN UTAH

- ✓ Trainee appraiser are allowed to have more than one supervising Certified Appraiser
- ✓ Supervisory appraisers can only supervise three trainees (at maximum)

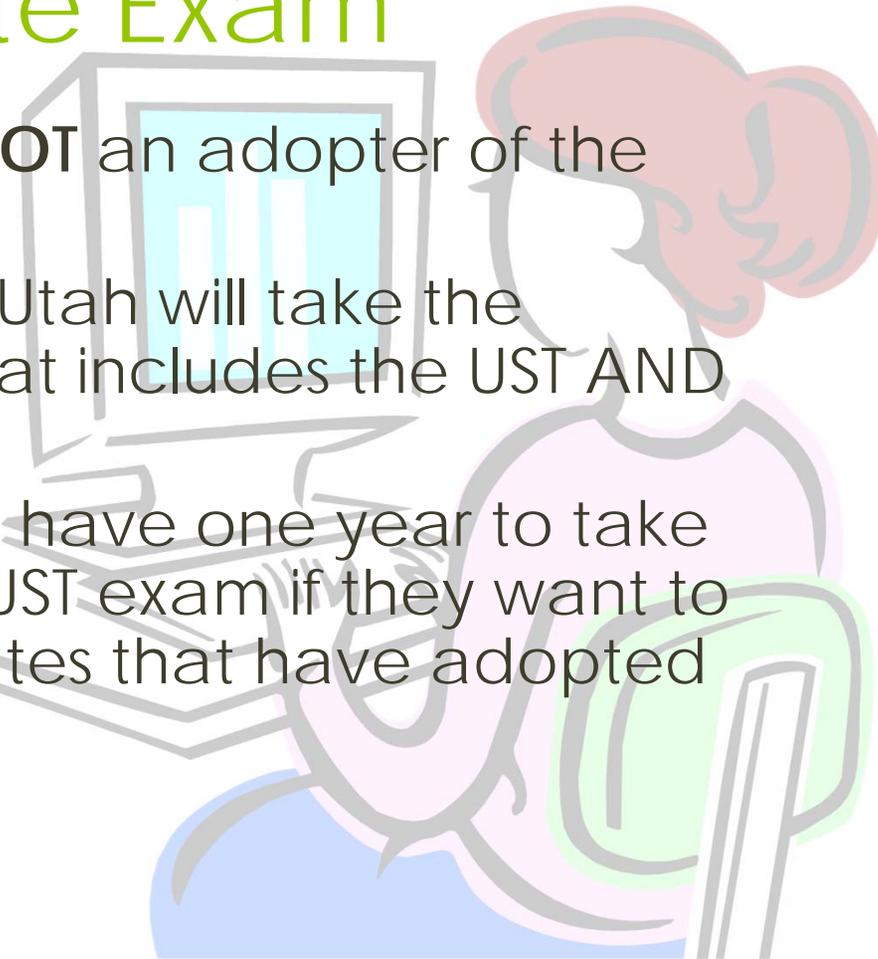


Mortgage



Uniform State Exam

- The Utah DRE is **NOT** an adopter of the exam.
- New licensees in Utah will take the national exam that includes the UST AND the state exam
- Existing Licensees have one year to take the stand-alone UST exam if they want to be licensed in states that have adopted the UST.



Call Reports/ Financial Statements

Call reports are due quarterly

- Due 45 days after quarter ends

Financial Statements are due annually

- Due 90 days after end of fiscal year

Continuing Education Requirement Proposal

- We have a proposed rule to require Utah-specific continuing education each year on Utah law.
- The course will be one or more hours
- Will not be effective until renewal for 2015.

Jeff Nielsen

Chief Investigator



Enforcement Complaint Trends



Jeff Nielsen
Chief Investigator
Division of Real Estate

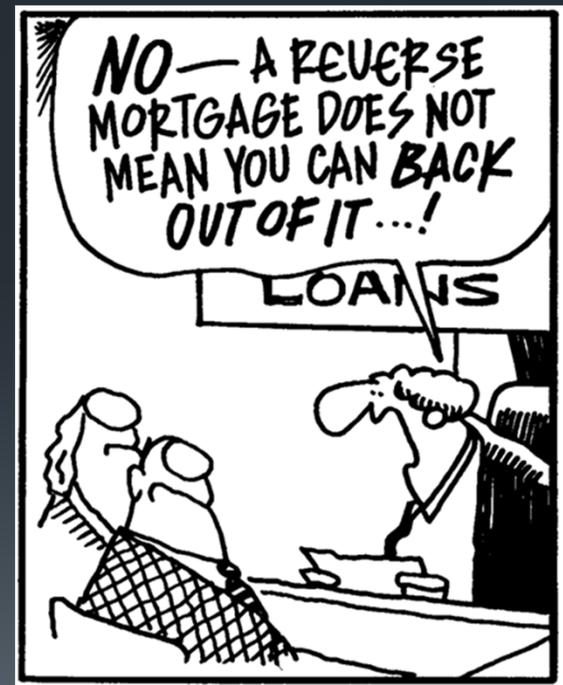


Mortgage Complaint Trends

- Advertising complaints
- Unlicensed activity
- Loan mods complaints

Advertising Complaints

- Failure to show brokerage on advertising
 - Cards
 - Website
 - Mailer
 - Youtube
- Have information about home owner's current lender
- Ads appear to be from a government entity



Important Information Regarding Your Mortgage

Information Regarding Your Mortgage

Benefits ID#: U-071610-1063

Salt Lake City, UT 84105

In order to assure you can stop making payments, please act now. Recently announced government changes may either limit the current benefit or disqualify many seniors.

Notice Expiration Date: July 31, 2010

Benefits ID#: U-071610-1063

to a HECM specialist today call the number below

1 800 710

Important Information Regarding Your Mortgage

Benefits ID#: U-071810-1003

Dear Sara,

Lender: Current Lender

First Deed Address: Salt Lake City, UT 84105

You may be eligible to stop making mortgage payments on your home permanently. To provide you with financial relief in response to the current recession, you have been pre-selected for the government-insured Home Equity Conversion Mortgage (HECM).

Dear Sara,

Lender: Current Lender

First Deed Address: Salt Lake C

To speak to a HECM specialist today call the number below

1-800-719-



* Amounts are based on age, income and property valuation. Loans will be subject to review by

Important Information Regarding Your Mortgage

Benefits ID#: U-071810-1063

Dear Sara,

Lender: Current Lender:

First Deed Address: Salt Lake City, UT 84105

You may be eligible to stop making mortgage payments on your home permanently. To provide you with financial relief in response to the current recession, you have been pre-selected for the government-insured Home Equity Conversion Mortgage (HECM).

- Receive thousands of dollars* tax free and payment free
- You retain ownership, title and occupancy
- Federally-insured to protect your equity
- Recently enhanced to qualify more homeowners

homeowners, please call today to learn about how you qualify for the HECM program and have your Benefits ID number ready.

Notice Expiration Date: July 31, 2010

Benefits ID#: U-071810-1063

To speak to a HECM specialist today call the number below

1-800-719-



*Amount varies based on age, FHA and property valuation. Loans will be repaid later by

Important Information Regarding Your Mortgage

Benefits ID#: U-071610-1063

Dear Sara,

Lender: Current Lender:

First Deed Address: Salt Lake City, UT 84105

You may be eligible to stop making mortgage payments on your home permanently. To provide you with financial relief in response to the current recession, you have been pre-selected for the government-insured Home Equity Conversion Mortgage (HECM).

What are the benefits of the HECM?

- Permanently eliminates your monthly mortgage payment
- Receive thousands of dollars* tax free and payment free
- You retain ownership, title and occupancy
- Federally-Insured to protect your equity
- Recently enhanced to qualify more homeowners

ber ready.

Notice Expiration Date: July 31, 2010

1-800-719-



* Amount varies based on age, LTV and property valuation. Loans will be repaid either by

Unlicensed Activity

- Processors/assistants originating loans
- Originating using a company name that is different than brokerage/without a PLM
- Lately, most of these complaints are tied to the loan mod complaints (Ex: Two cases = 7 C&D)







Loan Mods

- Mainly coming from out-of-state companies that will remain confidential (California)
- Companies/employees are not licensed to originate in Utah
- Many try rely on the attorney exception (becomes a bar issue)
 - UCA 61-2c-105(2)(m): an attorney admitted to practice law in this state:
 - (i) if the attorney is not principally engaged in the business of negotiating residential mortgage loans when considering the attorney's ordinary practice as a whole for all the attorney's clients; and
 - (ii) when the attorney engages in loan modification assistance in the course of the attorney's practice as an attorney.

Loan Mods...Part 2



- Some companies are using virtual offices/UPS store boxes, but do not have any real presence in our state
- Companies/MLO collecting up front fees
- “Need an audit?” - Companies/MLO offering “services” in order to get an up front fee

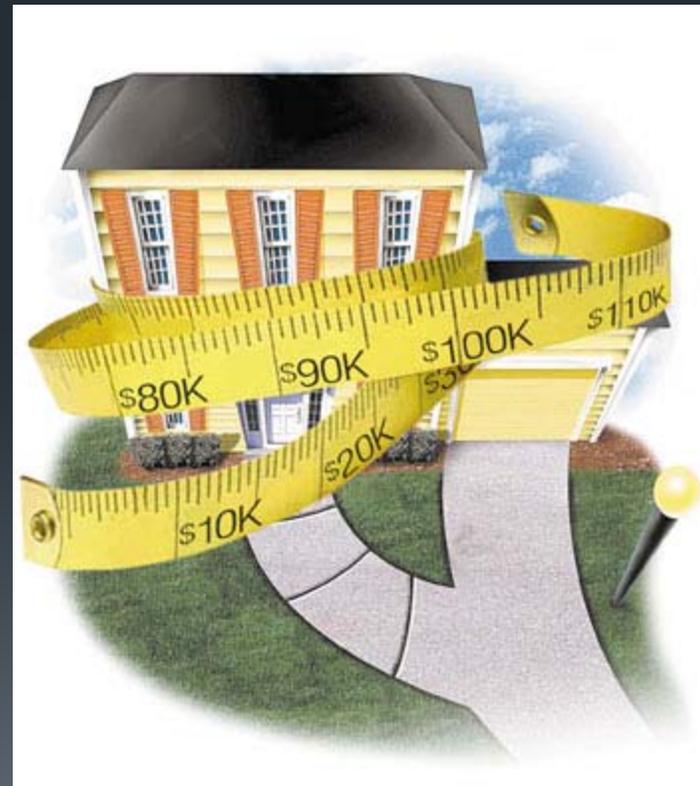
Moving Forward

- The number of mortgage complaints has slowed down in the last few months
- We are looking to take a more proactive approach in the future
 - Proactive audits/meetings



Appraisal Complaint Trends

- Comp disputes
- USPAP violations
- Complaints against AMCs
- Errors in appraisal
- Monster Homes
- Competency
- Other housekeeping



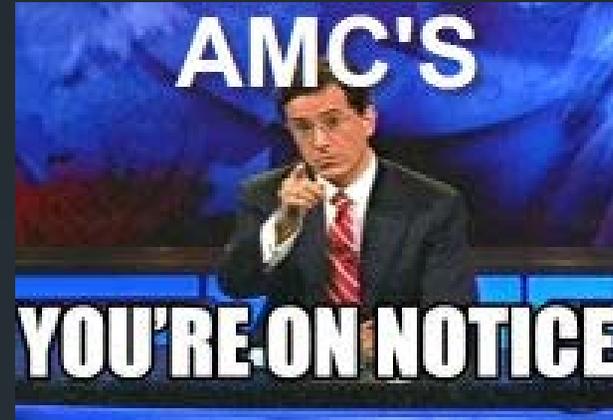
Comp Disputes

- Who submits them?
 - Mainly come from home owners
 - Sometimes from reviewers either working for the lenders or AMCs
 - Sometimes from real estate agents
- Problem: Usually are far from subject property, or in a different neighborhood/market area
- Problem: Sometimes comps are in superior locations



AMC Complaints

- Failure to pay
 - Bond
- Customary and reasonable fees
 - CFPB
- We can enforce our state statutes regarding AMCs, but we do not get many regarding our specific statutes and rules



Arppiasal Erros

- Usually involve mroe mynor mykstakes
- cAn eb a PAPPY vylation
 - SR 1-1 something
- Sometimes do 2 arppiaseer knot knoticing potions of homez
- C'mmon kauses:
 - Kanned langage 'n Report
 - Genral sloppinesss



Appraisal Errors

- Usually involves more minor mistakes
- Can fall under a USPAP violation
 - SR 1-1 (b) and (c)
- Sometimes involves appraiser not noticing portions of the home
- Common causes:
 - Canned/other language left in report
 - General sloppiness



Monster Homes

- Large, unique, or complex homes
- Results:
 - Appraisers fail to recognize obsolescence and/or superadequacy of property
 - Appraisers use unrecognized techniques
- Possibly a competency-related issue
- May involve inappropriate comps
 - May need to expand your horizons...or search area
- GLA? (What to be included?)
- Which approach to use?





Competency

- Competency issues with:
 - Type of property
 - Market
 - Geographic area
 - Methods
- Ties to Monster Homes/complexity issues



Competency...Continued

- Remember when you accept an assignment, you are saying you are competent to work in a particular area, this is your responsibility.
- Acquiring competency
 - Disclose, learn, disclose
- If nothing else, turn down



Other Housekeeping:

- Not developing one of the approaches when appropriate
- Manufactured housing:
 - Using wrong form
 - Not identifying subject is a manufactured home
- Using correct form? (1004 for non-financed transaction)
- Making cost-to-cure instead of market adjustments
- Verbal statements of value to home owners
- Appraiser not responding to home owner
- Appraiser not spending much time at property
- Going low – just as bad as going high



Real Estate Complaint Trends

- Advertising violations
- Ethics complaints
- Property management
- Unlicensed activity
- Agency related complaints
- Fiduciary duty violations
- Various short-sale fraud allegations
- Trust accounts
- Equity skimming

For Sale Signs Helpful In Selling Real Estate

By Ellen James Martin

Are you selling a home and think a "for sale" sign is a mere footnote in the process? Then think again.

"The power of signs can be incredible — not only as a marker identifying your property but also as a great source of leads," says Keith Bisogno of PHH Homequity Corp., an international relocation company.

Nearly all real estate agents favor the use of signs. But about 10 percent of home sellers ask that no sign be used, estimates Bisogno, the marketing manager for PHH Homequity.

■ Smart Moves

Yet in more than 90 percent of U.S. communities, Americans retain broad rights to use real estate signs, points out Emerson Schwartzkopf, technical editor of Sign Business, a trade magazine.

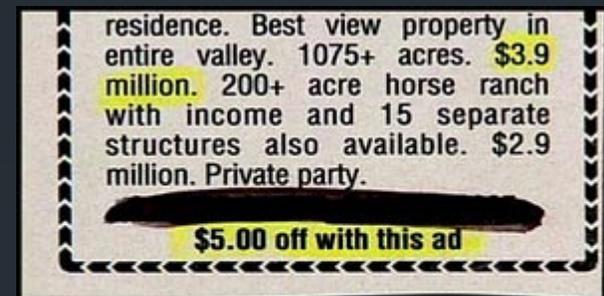
For those able to use real estate signs, the experts offer these four pointers:

✓ No. 1: Use a sign to add "curb appeal" to your property.

"A sign is part of the first impression of the house. And, as the old saying goes,

Advertising Violations

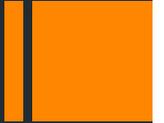
- Blind ads
 - KSL has been area of largest abuse
- Not disclosing brokerage info
- Disclosing brokerage info...in microprint
 - ½ size requirement
- Using other company names
- Not disclosing owner/agent situations
- Lately, about 1/3 of the complaints received are advertising complaints



Ethics Complaints

- Tend to receive when complaints filed with local board or UAR
- Typically refer complainants to the board/UAR
- We only review if complaint may also be a violation of our statutes and rules
 - There has been confusion about roles of the DRE and board regarding complaints and authority
 - Same for commission disputes





Property Management

- Complaints made about not returning security deposits or other mismanagement of fund issues
 - Lack of payments
 - Related to trust account issues
- Lack of knowledge
 - Sales agent decides to take a stab at PM
 - Not doing background on tenants
- Lack of paperwork provided to owner
- New PM rules coming soon
 - Beware of how unlicensed assistants operate





Unlicensed activity

- Usually involved in short sale negotiation situations
- People try to rely on attorney exception
 - UCA 61-2f-202(2)(b): services rendered by an attorney admitted to practice law IN THIS STATE in performing the attorney's duties as an attorney
- Some cases involve websites where real estate and businesses are sold
- If you see, send it to the DRE

Broker Complaints

- Locations not registered with DRE
- Failure to supervise
- Keepers of the Trust...Accounts (to be continued...)



(Picture of actual broker)



Who my agent Complaints

- Complaints related to non-disclosure of limited agency
- Sometimes involves designated agency situations, such as in short sale situations
- Also includes owner/seller situations

Fiduciary Duty Violations

- Found in a lot of the situations we evaluate, especially with:
 - Short sales
 - Property management
 - Limited agency





Various short-sale fraud allegations

- Low-ball offers + real buyer for more = more money for agents et al
- Agents only showing seller some of the offers (fiduciary duty)
- Agents showing offers where brokerage also represents the buyer; offer for significantly less than other offers
- Double contracts; not representing full terms of deal to lender
- Seller selling home to somebody else, then renting it back or buying it back soon thereafter



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Normal Foreclosure



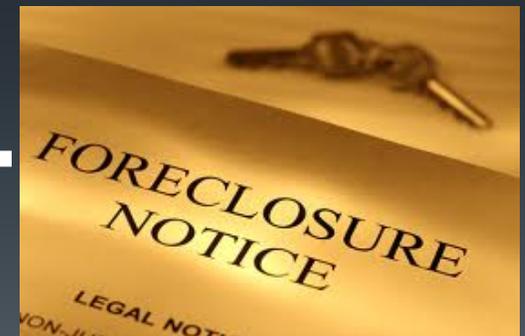
Owners



Existing mortgage



Behind on Payments



NOTICE OF DEFAULT



Foreclosure



Transfer Title

Short Sale Scam Example



Owner



Behind on Payments



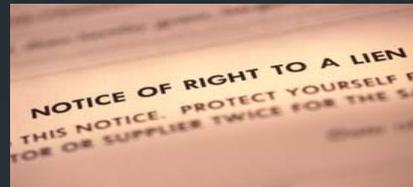
NOTICE OF
DEFAULT



Real Estate Agent



False Preliminary
HUD's



False Liens / False Tax Liens



Straw Buyer
Dummy Offer



Stall Foreclosure



Real Buyer



Real HUD's



Agent Skims the
Difference

Trust Accounts

- Cases involve brokers using account as an ATM
- Employees stealing from account
 - Broker still responsible
 - Employee using spreadsheets to hide loss
 - Broker failing to reconcile monthly
 - Taking cash



Equity skimming

- Seen with foreclosure and short sales
 - Example: Renting vacant home and keeping money
- Violation of federal law
- Also may entail other HUD violations

