

R162-2c-202. Qualifications for Licensure.

- (1) Character. Individual applicants and control persons shall evidence good moral character, honesty, integrity, and truthfulness.
 - (a) An applicant may not have:
 - (i) been convicted of, pled guilty to, pled no contest to, pled guilty in a similar manner to, or resolved by diversion or its equivalent:
 - (A) a felony involving an act of fraud, dishonesty, a breach of trust, or money laundering;
 - (B) any felony in the seven years preceding the day on which an application is submitted to the division;
 - (C) in the five years preceding the day on which an application is submitted to the division:
 - (I) a misdemeanor involving moral turpitude; or
 - (II) a crime in another jurisdiction that is the equivalent of a misdemeanor involving moral turpitude;
 - (D) in the three years preceding the day on which an application is submitted to the division, any misdemeanor involving a finding of:
 - (I) fraud;
 - (II) misrepresentation;
 - (III) theft; or
 - (IV) dishonesty;
 - (ii) had a license as a mortgage loan originator revoked by a government regulatory body at any time, unless the revocation is subsequently vacated or converted;
 - (iii) had a professional license or registration, whether issued by a Utah regulatory body or by another jurisdiction, suspended, surrendered, canceled, or denied in the five years preceding the date the individual applies for licensure if the suspension, surrender, cancellation, or denial is based on misconduct in a professional capacity that relates to:
 - (A) moral character;
 - (B) honesty;
 - (C) integrity;
 - (D) truthfulness; or
 - (E) the competency to transact the business of residential mortgage loans;
 - (iv) in the five years preceding the day on which an application is submitted to the division, been the subject of a bar by the:
 - (A) Securities and Exchange Commission;
 - (B) New York Stock Exchange; or
 - (C) Financial Industry Regulatory Authority;
 - (v) had a permanent injunction entered against the individual:
 - (A) by a court or administrative agency; and
 - (B) on the basis of:
 - (I) conduct or a practice involving the business of residential mortgage loans; or

- (II) conduct involving fraud, misrepresentation, or deceit.
- (b) An applicant may be denied a license or issued a restricted license for incidents in the applicant's past other than those specified in this Subsection (1)(a) that reflect negatively on the applicant's moral character, honesty, integrity, and truthfulness. In evaluating an applicant for these qualities, the division and commission may consider any evidence, including the following:
- (i) criminal convictions or plea agreements, with particular consideration given to convictions or plea agreements relative to charges that involve moral turpitude;
 - (ii) the circumstances that led to any criminal conviction or plea agreement under consideration;
 - (iii) past acts related to honesty or moral character, with particular consideration given to any such acts involving the business of residential mortgage loans;
 - (iv) dishonest conduct that would be grounds under Utah law for sanctioning an existing licensee;
 - (v) civil judgments in lawsuits brought on grounds of fraud, misrepresentation, or deceit;
 - (vi) court findings of fraudulent or deceitful activity;
 - (vii) evidence of non-compliance with court orders or conditions of sentencing;
 - (viii) evidence of non-compliance with:
 - (A) terms of a diversion agreement still subject to prosecution;
 - (B) a probation agreement; or
 - (C) a plea in abeyance; or
 - (ix) failure to pay taxes or child support obligations.
- (2) Competency. Individual applicants and control persons shall evidence competency to transact the business of residential mortgage loans. In evaluating an applicant for competency, the division and commission may consider any evidence that reflects negatively on an applicant's competency, including:
- (a) civil judgments, with particular consideration given to any such judgments involving the business of residential mortgage loans;
 - (b) failure to satisfy a civil judgment that has not been discharged in bankruptcy;
 - (c) failure of any previous mortgage loan business in which the individual was engaged, as well as the circumstances surrounding that failure;
 - (d) evidence as to the applicant's business management and employment practices, including the payment of employees, independent contractors, and third parties;
 - (e) the extent and quality of the applicant's training and education in mortgage lending;
 - (f) the extent and quality of the applicant's training and education in business management;
 - (g) the extent of the applicant's knowledge of the Utah Residential Mortgage Practices Act;
 - (h) evidence of disregard for licensing laws;

- (i) evidence of drug or alcohol dependency;
 - (j) sanctions placed on professional licenses; and
 - (k) investigations conducted by regulatory agencies relative to professional licenses.
- (3) Financial responsibility. Individual applicants shall evidence financial responsibility. To evaluate an applicant for financial responsibility, the division shall:
- (a) access the credit information available through the NMLS of:
 - (i) an applicant for initial licensure, beginning October 18, 2010; and
 - (ii) a licensee who requests renewal during the 2010 renewal period, unless the licensee's credit report was reviewed in issuing the initial license; and
 - (b) give particular consideration to:
 - (i) outstanding civil judgments;
 - (ii) outstanding tax liens;
 - (iii) foreclosures;
 - (iv) multiple social security numbers attached to the individual's name;
 - (v) child support arrearages; and
 - (vi) bankruptcies.
- (4) Age. An applicant shall be at least 18 years of age.
- (5) Minimum education. An applicant shall have a high school diploma, GED, or equivalent education as approved by the commission.