

# Utah! DIVISION of REAL ESTATE NEWS

*A publication for Utah's real estate,  
appraisal, and mortgage professionals.*

Gary R. Herbert, Governor • Francine A. Giani, Executive Director • Deanna Sabey, Division Director

FOURTH QUARTER 2009



**Deanna Sabey**

## From the Director's Desk

My father taught me to be ready for opportunities when they come knocking. When the chance to become Division Director came my way, I knew the position was one of those outstanding opportunities I could not pass up. I had worked for years as general counsel for a nationwide mortgage

company and had my real estate license long ago in California. Given my professional background as a lawyer and my love of the real estate industry, I jumped at the chance to become the DRE's new Director.

When I started working at the DRE in August of this year, the first thing I noticed was that Division staff work very hard and take their jobs seriously. They care about the real estate, appraiser, and mortgage industries. They are not afraid to think outside the box and help come up with solutions to make the Division more effective and efficient. I thought it would be good to recognize them for their efforts. One of my old clients had a practice of sharing at staff meetings the correspondence from customers who expressed their thanks for the good services of an employee. I have adopted that practice. If you have a good experience with one of our staff members, I encourage you to send me an e-mail: [realestate@utah.gov](mailto:realestate@utah.gov).

The DRE remains fully engaged in the education, licensure, and regulation of real estate, mortgage and appraisal professionals. Since August, the Division

has spent hundreds of hours working on the process for mortgage licensees to transition onto the NMLS system. Utah is mandated by federal law to participate in this system. Staff has been working on new mortgage and appraiser rules, some of which have been finalized or are now out for public comment (see Rules, Rules, Rules article on page 14). We are planning to implement an on-line complaint process in January so the Division can respond more quickly to complaints. These are just a few of the "upgrades" taking place at the DRE.

The Division finally has the ability to e-mail our newsletter to you. You might have received the newsletter you're reading right now by e-mail. This method of delivery saves paper, postage, staff time, etc. and eventually will allow you to receive more than just the newsletter via e-mail. In the future, we will be able to e-mail you renewal reminders, important bulletins, and other

*continued on page 2*

### *In This Issue*

Transition onto the NMLS . . . . .	3
Annual Instructor Development Workshop . . . . .	3
Inactive License and Referral Companies . . . . .	5
Staff Spotlight . . . . .	5
License Renewal Q & A . . . . .	6
Licensing Actions & Disciplinary Sanctions . . . . .	7
New Appraiser Board Member . . . . .	7
Rules, Rules, Rules . . . . .	8
Kagie's Korner . . . . .	11
Electronic Newsletter . . . . .	11
Common Definitions . . . . .	12
Inactive or Active Status: NMLS Transition. . . . .	13
Thank you Commissioner Sampson . . . . .	14
SAFE Mortgage Licensing Act Chart . . . . .	15

*continued from page 1*

## From the Director's Desk

information you need to know regarding the DRE, your license, and your industry. Please make sure the Division has your most current e-mail address so you won't get missed. An on-line version of the newsletter will also be posted on the Division's website.

Recently, the Division modified its mission statement to add the clause "promote responsible business practices." With the ugly market downturn, some people seem to have either forgotten what responsible business practices are or justify their actions as responsible when their actions are illegal. A good example is the practices of some "professionals" involved in short sales and loan modifications. The press has covered stories involving victims of fee gouging, illegal property transfers, fraud, and blatant deceit perpetrated by unscrupulous people. Many of the bad actors don't even bother to get licensed. The Division has received complaints about such illegal practices and is taking action to "bring down" the bad guys.

In the state of Utah, a person who performs loan modification services on behalf of a consumer must be licensed as a mortgage loan officer. A loan modification occurs when a person assists a borrower in obtaining loan terms that vary from the existing loan terms. Done legally and ethically, a loan modification can be an excellent tool to help a borrower in trouble.

Short sales can also provide necessary relief for people who are struggling with mortgage payments or who are simply trying to sell a home. If someone is negotiating a short sale on behalf of another person, that individual must be a licensed real estate agent or broker. In a short sale, the lender accepts less than the borrower's remaining balance on the note in exchange for the proceeds of an approved real property sales transaction. The lender sometimes agrees not to seek further payment from the borrower after the transaction has closed. Unless the borrower gets a deficiency waiver from the lender, the lender can obtain a deficiency judgment and force the seller to pay the balance left on the note after the home sells.

Because real property values have significantly decreased over the past couple of years, a seller is sometimes left with no remedy other than a short sale in order to sell a property. It's not too hard to see why it is wise for a seller to enlist the services of a knowledgeable and ethical real estate agent to help navigate the short sale process.

Whether you are a mortgage lender, real estate professional, appraiser, or time-share professional, my approach to licensing and regulation is rather simple. If you are licensed, stay educated, and strive to provide the best service you can for your clients, you won't hear from the Division very often. If you do not adhere to responsible business practices and violate the laws and rules the DRE is charged to enforce, we will hold you fully accountable and bring you before a commission or board of your peers.

I hope to make your acquaintance under pleasant, non-adversarial conditions!



# WELCOME



**MORTGAGE FOLKS PLEASE READ ALL  
TRANSITION ARTICLES! THERE IS  
CRITICAL INFORMATION THAT WILL  
DIRECTLY AFFECT YOUR LICENSE!**

## Transitioning A Utah Mortgage Loan Originator License Or Lending Manager License Onto The Nationwide Mortgage Licensing System:

To comply with the SAFE Act, all mortgage officers and lending managers must transition their licenses onto NMLS between January 4 and May 31, 2010. You will need to accomplish the following to facilitate your transition.

- Complete Education Requirement
- Complete Testing Requirement
- Complete Background Check
- Create an Individual Account in NMLS and Obtain a Unique Identifier Number
- Create/and or attest to an MU4 Form
- Establish a Sponsorship with your employer
- Submit your MU4 Form for transition through NMLS

**Education Requirement**—The SAFE Act requires that all licensees complete a minimum of 20 hours of pre-licensing education. If you are an existing licensee in Utah, many of you have met this requirement, either by completing our state-approved 20-hour pre-licensing education requirement or by completing two license renewal cycles, each of which included 14 hours of continuing education. There will be an opportunity for you to certify your prior completion of the education requirement once your record is created in NMLS. Details on this certification process will come out in a later newsletter. For now, be aware that there will be a \$15 fee assessed in NMLS to complete this process.

**Testing Requirement**—All licensees must complete a national and state component of the SAFE exam. All Utah licensees who have passed the state exam

*continued on page 4*

## Annual Instructor Development Workshop A Resounding Success

Licensing instructors from around the state gathered for the annual Instructor Development Workshop this past October. This year's event was held in Salt Lake, and over 100 real estate, mortgage, and appraisal instructors (both pre-license and continuing education) enjoyed a fascinating and enlightening two-day training session.



Amy Chorew, a national technology instructor, showed our professional instructors the new tools available to better reach and communicate with students. According to Chorew, “Empowered instructors can empower licensees.” She taught licensed instructors about synchronous online delivery and gave them guidance as to which topics work well in this medium. Chorew exposed attendees to different technology techniques such as enabling clip art, special effects, and animations, and embedding video into slides, websites, and Power Point presentations.

All attendees left with an increased understanding and enthusiasm to include new ideas and procedures into their teaching materials.

New Division Director Deanna Sabey introduced herself to the state's licensed instructors and presented her insight into our industries and the Division's regulatory responsibilities.

Mark Fagergren, the Division's Licensing/Education Director, discussed with attendees new DRE rules and Dee Johnson, Enforcement Director for the DRE, presented the current enforcement issues and challenges that are “rearing their heads” and causing regulatory problems.

This year's instructor workshop was very successful and was also a great way to encourage interaction between regulators and educators.



*continued from page 3*

## Transitioning A Utah Mortgage Loan Originator License Or Lending Manager License Onto The Nationwide Mortgage Licensing System:

component in the past will be able to certify in NMLS that they have met this requirement. Details on this certification process will be explained later. There will be a \$5 fee assessed in NMLS to complete this process. **All** licensees will need to take and pass the **national** component of the SAFE test, even if you already passed the general portion of the current Utah mortgage originator exam. You have from now through December 31, 2010 to take and pass the NMLS national exam. We are recommending that you do this sooner rather than later so that you can beat the rush and ensure that your license will not be in jeopardy. Should you fail the exam, you must wait 30 days to retake the exam, so give yourself at least that much time—just in case. You must register for the exam in NMLS by creating an **Individual Account** and selecting the “Professional Requirements” tab. There is a \$92 fee to take the exam.

**Background Check** – Before December 31, 2010, you will be required to submit fingerprints into the NMLS and authorize a background check. This functionality is scheduled to be available sometime in January, 2010. **All** licensees will be required to submit their fingerprints—even those who completed this process in the past. Details on this process will be explained to you at a later time.

**Individual Account in NMLS**—Every licensee will need to create an individual account. This process will provide you with a unique identifier. Having an account will allow you to attest to your record if created by your company, schedule the NMLS exam, access your account for amendments, request or change sponsorships (entity affiliations), and perform other activities necessary to maintain your license. To create this account, access NMLS through this link: [www.stateregulatoryregistry.org](http://www.stateregulatoryregistry.org). Then click the “Log into NMLS” button.

**Log into NMLS**

Follow the guides provided on the NMLS Resource Page to create your account. If you need personal assistance, you can call the help

center at (240) 386-4444 during business hours (7:00 a.m. to 5:00 p.m.), and customer service professionals will answer your questions and walk you through the program.

**Create or Attest to an MU4 Form**—Every individual mortgage loan originator must complete a record in NMLS by completing an MU4 Form. This form may be completed by your employer. In that situation, you will simply have to attest to its accuracy. If you prefer, you may complete the form yourself. After you have obtained an Individual Account in NMLS, you may log onto the system ([www.stateregulatoryregistry.org](http://www.stateregulatoryregistry.org)) to complete your record under the “Filing” tab. There are quick guides in the NMLS Resource Center that will guide you through this process. Please note that you will need to have your current DRE license number to avoid creating a “new license” and being assessed additional fees. You will also need to be prepared to provide ten years of residential and work history.

**Establish a Sponsorship with your Employer** – The company that employs you must request a sponsorship on your behalf. Before the PLM can do this, you must grant access. This is accomplished once you have completed your MU4 filing. You will log into NMLS at the NMLS website at [www.stateregulatoryregistry.org/nmls](http://www.stateregulatoryregistry.org/nmls) and click on the following button: Under the “Filing” tab, click on Company Access and follow the instructions.

**Log into NMLS**

**Submit your MU4 Form for Transition** –

Once your MU4 Form is completed, you can request transition. This process should be done **ONLY AFTER** you have submitted all required information, sent any required documentation to the DRE, and established your sponsorship with your company. The DRE regulators will review the request, verify accuracy, and then issue approval. Once the transition is approved, your license is fully transitioned into the NMLS system, and you are ready for the renewal process that begins November 1, 2010.



## My Real Estate License Is Inactive... I Have It Placed With A Referral Company... NOT!

It's not unusual for the Division to receive a phone call from a licensee who says something like this: "I want to inactivate my license because I've decided to place it with a referral company." We need to clarify this issue in order to assist you in the proper maintenance of your license. The Division of Real Estate recognizes two different license statuses: "active" and "inactive". If your license is INACTIVE, you are not affiliated with ANY company. You are legally ineligible to engage in the business of a real estate agent or broker and you are prohibited from receiving any compensation, including referral fees. In order to be affiliated with any real estate company, including referral companies, property management groups, and commercial or residential brokerages, your license must be ACTIVE. There is a common misconception that a license may be placed on inactive status, but still affiliated with a referral company.. This is untrue! The only license that will allow you to be compensated for providing referrals is an active license. It is very important to familiarize yourself with the terms used by the Division in order to avoid costly penalties and unnecessary fees.



## Staff Spotlight

### Jennica Robison DRE Receptionist

Have you ever visited the Utah Division of Real Estate office located in the Heber M. Wells building? Have you ever called the UDRE's main phone number? If you have, you surely know that the UDRE has one of the best receptionists a professional office could have! Jennica has been the receptionist for our Division for over two years. Throughout this time, we can honestly say our office has never run more smoothly or efficiently. She has brought to the front desk a level of professionalism and expertise that we deeply appreciate. Jennica has a friendly and disarming disposition. She is extremely bright and provides detailed and focused assistance to the professionals who arrive at our office.



Jennica has multiple responsibilities at the Division. She not only warmly greets all visitors with a sincere smile, but she addresses a plethora of wide ranging questions while answering the phone. Jennica also distributes all incoming mail, makes an initial review of fingerprint submissions, reviews new license and continuing education applications, processes license renewals and change cards, and handles anything else that comes through the fax machine or mail. Jennica is the initial point of contact with our licensees and the general public, and we are very proud that she represents us in serving you!

So, if you ever have questions and want a friendly person to talk to... Jennica can quickly and efficiently assist you while making your day a little bit brighter.



## License Renewal Q & A

**Q:** Does my license renew this year or next?

**A:** The easiest way to determine your renewal date is to check your pocket or wall license for this information.

If you can't find either of your printed licenses, you can quickly verify your license expiration date by going to the Division website at [www.realestate.utah.gov](http://www.realestate.utah.gov). On the main page is a link that allows you to look up specific information on any licensee. Click on "Look Up A License". Type your name and click "submit" and then "detail". Your name, license number and license expiration date will appear.

Real estate and appraiser licenses are valid for two years. Mortgage licenses will all expire on December 31, 2010. Thereafter, mortgage licensees will renew annually between November 1st and December 31st.

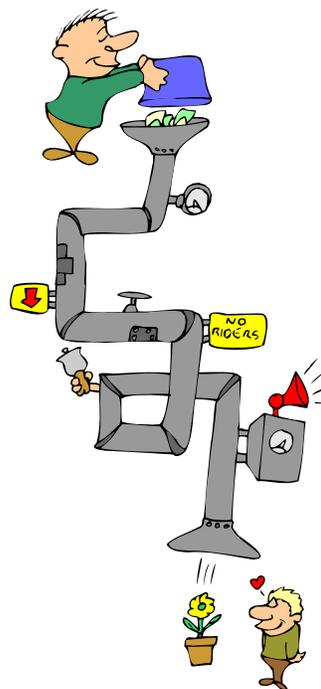
**Q:** If I have an inactive real estate license, do I need to renew it?

**A:** YES!! Your license can remain on inactive status for as many renewal cycles as you desire, HOWEVER, it essential that you renew your license prior to its expiration date. If a license is placed on inactive status and a licensee fails to renew, that license will expire! Real estate licensees renewing an inactive license do not require continuing education, but the application must be submitted along with the necessary renewal fee. Under NMLS requirements, a mortgage licensee is required to complete continuing education in order to renew the license even if the license is renewed on inactive status. Appraisers do NOT have an inactive license status.

**Q:** How do I know my renewal was received and processed by the UDRE?

**A:** If you have successfully renewed your license, you will receive a new license in the mail within ten business days. Online renewal applicants can immediately print a temporary license to use until the UDRE license arrives. If you have not received your license within ten business

days.... something is wrong! Have you updated your address? Did you send in a renewal fee? Was the credit card you submitted declined? Did you send in all your CE certificates? Did the CE you submitted meet the minimum number of hours and core course requirements?



**Q:** Why didn't I receive credit for the continuing education I recently completed?

**A:** The course provider is responsible for submitting proof of education completion for licensees. These providers have 10 business days to "bank" the education into your personal continuing education account. Check your RELMS account 10 days after you finish a course. If your account does not show

the course, contact the course provider. If the provider still fails to bank your education, complete a "CE Banking Complaint" form and send it to the UDRE.

**Q:** I need continuing education hours...Where do I find some courses?

**A:** The UDRE maintains a list of all approved courses. Simply go to [www.realestate.utah.gov](http://www.realestate.utah.gov) and select the drop down menu for your industry. Then go to Education FAQ's, scroll down and click the link to certified continuing education. This list will provide an array of certified courses for the choosing!



**Fourth Quarter 2009**  
**Licensing Actions**  
**And**  
**Disciplinary**  
**Sanctions**



*Please note that there are 30 days after the order date for a licensee or an applicant to file a request for agency review of the order, and that there are 30 days after the issuance of an order on review for a licensee or an applicant to file a petition for judicial review. Some of the orders listed may be within those appeal periods.*

**JEANETTE PAYNE**



**APPRAISER LICENSING AND  
 CERTIFICATION BOARD**

I am honored and excited about the opportunity to help move the appraisal profession forward. I studied Arabic at Harvard and graduated from the University of Utah. I am a Certified Residential Appraiser and have over 20 years experience in the appraisal profession. I started appraising as an FHA appraiser and have appraised mostly VA, Relocation and Eminent Domain residences. I have been active in the Utah Chapter of the Appraisal Institute and in the past have served as Education Chair, Candidate Guidance Co-Chair, Christmas Party Chair as well as various other assignments. I have experience being a reviewer for the State Division of Real Estate and am presently a pre-license Appraisal Instructor. I received the "Appraiser of the Year" award both from the Salt Lake Sub-Chapter and the Utah Chapter of the Appraisal Institute. I am married to Allan Payne, MAI, SRA and have 4 daughters and sixteen grandchildren.



▶ Appraisal

▶ Mortgage

▶ Real Estate

## RULES, RULES, RULES

### Appraisal

During the 2009 legislative session, the Utah Legislature passed **House Bill 86**, and the sections that affect the appraisal industry are codified in **Utah Code § 61-2b**. The new provisions require appraiser trainees who register with the Division to undergo a background check through the FBI and the Utah BCI. It also requires trainees to renew the registration every two years. Subsequently, the Appraisal Board drafted Rule 162-110 to put these requirements into place. The rule was published for comment in the December 1, 2009 state bulletin. **Trainees take note: If you registered with the Division and did not undergo a background check, you have to re-register.**

- If you registered prior to January 1, 2008, you have until January 1, 2011 to re-register.
- If you registered during the 2008 calendar year, you must re-register in 2011 by the anniversary of your registration date. For example, a trainee whose registration was approved on June 1, 2008 would have until June 1, 2011 to re-register.
- If you registered on or after January 1, 2009, you must re-register by the two-year anniversary of your registration date. For example, a trainee whose registration was approved on February 1, 2009 would have until February 1, 2011 to re-register.

Here's some friendly advice: **DON'T WAIT UNTIL THE LAST MINUTE.** You have to provide evidence of having completed 21 hours of UDRE approved CE or AQB approved qualifying education in order to re-register. You also have to complete the 7-hour National USPAP Update Course. So, if you intend to complete your training and sit for the examination, you should get the process going. Click [here](#) for the complete text of the proposed rule.

While working on Rule 162-110, the Board noted other sections of the rules that needed some updating. Amendments to Rules 162-101, 162-102, 162-104, and 162-105 were published for comment on December 15, 2009. Here are some highlights:

- Individuals logging their experience toward licensure or certification no longer have to calculate points. Just keep track of your hours.
- Trainees, you may **NOT** be supervised by a state licensed appraiser. Make sure that your supervisor is a state certified appraiser, or your experience **will not count**. This is not a new requirement. It has been in place since January 1, 2008, but there still seems to be some confusion in the industry, so we've clarified the rules.
- Supervisors, you may **NOT** sign an appraisal report that requires you to certify that you personally inspected the property if you sent your trainee out to do the inspection. When the scope of work and appraiser certification sections of your appraisal report state that you personally inspected the property, you have to go look at it before you sign. This is not a new rule, but it seems to be a problem throughout the industry. The Division is taking disciplinary action against supervisors in these situations.
- Individuals have 12 months to reinstate an expired registration, license, or certification.

Here are links to the full text of these rules as proposed:

- [Rule 162-101](#)
- [Rule 162-102](#)
- [Rule 162-104](#)
- [Rule 162-105](#)

The public comment period for these rules ends at 5:00 P.M. on January 14, 2010. Let us know your thoughts!

House Bill 86 allowed the Division and the Board to exempt certain individuals from having to comply with USPAP. See [Utah Code § 61-2b-8\(5\)\(c\)](#). The Board has proposed an amendment to Rule 162-106 that would exempt the following:

- Division staff and employees
- members of experience review committees
- members of technical review committees
- hearing officers
- members of county boards of equalization
- administrative law judges
- members of the Utah State Tax Commission

- Board members

The rule was published in the December 15, 2009 state bulletin and is open for public comment until 5:00 P.M. on January 27. Click [here](#) for the full text of Rule 162-106 as proposed. A public hearing will be held on January 27 from 9:00 A.M. until 10:00 A.M. in room 210 of the Heber Wells Building. So if you have thoughts on this issue, be sure to let us hear them!

### Appraisal Management Companies

**House Bill 152**, passed in the 2009 legislative session, is codified as **Utah Code § 61-2e**. The Board has put **Rule 162-150** into place in order to implement the specific requirements of this new law. Here are some highlights:

- Any AMC that contracts for ten or more Utah appraisals in a calendar year must register with the Division and renew the registration every two years.
- Any person exercising control over an AMC must undergo a background check.
- AMCs must verify that the appraisers with whom they contract are licensed or certified and in good standing with the Division.
- AMCs must put into place a system to ensure that the appraisers with whom they contract are conducting appraisals in accordance with USPAP standards.
- AMCs must require appraisers to disclose within the body of the appraisal report the fee that goes to the AMC and the fee that goes to the appraiser.
- AMC employees who select appraisers must take and pass the 15-hour national USPAP course.
- AMCs may not do any of the following:
  - § remove an appraiser from the appraiser panel without cause or without notifying the appraiser of the removal;
  - § attempt to influence an appraiser's work by withholding payment or through any other

means that might be considered undue influence;

- § require an appraiser to complete an appraisal that the appraiser does not feel qualified to complete or within a time frame that the appraiser considers to be inadequate to allow for proper research, inspection, etc.;
- § prohibit or inhibit communication between the appraiser and the lender, real estate agent, mortgage broker, or any other person the appraiser needs to talk to in order to get relevant information;
- § require the appraiser to violate USPAP;
- § make the appraiser's fee subject to a favorable outcome;
- § request a broker price opinion to facilitate a mortgage loan transaction; or
- § require the appraiser to remit a portion of the appraiser's fee to the AMC.

### Mortgage

**Senate Bill 31** was passed in the 2009 legislative session to bring the Utah Residential Mortgage Practices and Licensing Act, **Utah Code § 61-2c**, into compliance with the federal SAFE Act. The new provisions go into effect tomorrow, January 1, 2010. Shortly thereafter, the Commission and Division will publish revised mortgage rules relating to the legislative changes.

This newsletter includes information that will help you know what you need to do so your transition to the new licensing system will be smooth. Here are some highlights.

- Register in the NMLS database **by May 31, 2010**.
- Be sure that your education is adequate. Here's what will work:
  - § You took the 20-hour prelicensing course in order to obtain your initial license. **–OR–**
  - § You have renewed your license at least twice, such that you have completed two license renewal cycles of 14 hours of continuing education since the time you obtained your initial license.

*continued on page 10*

*continued from page 9*

## RULES, RULES, RULES

- If you were licensed before October 1, 2009, complete at least 14 hours of continuing education before attempting to renew in 2010. **Note: that's 14 hours since your last renewal.** If you licensed after October 1, 2009, complete 8 hours of approved continuing education before December 31, 2010.
- Take (and pass!) the national portion of the new licensing exam.

The new rules are coming soon. Watch the **DRE website** for details.

### Real Estate

**House Bill 86** was passed in the 2009 legislative session, and the sections that affect the real estate industry are codified in **Utah Code § 61-2**. Here are some highlights:

- The number of hours for the prelicensing education course is increased to 120.
- The number of continuing education hours required for renewal is increased to 18. The Commission amended **Rule 162-3-6** and **Rule 162-9-2** to be consistent with this change and to provide additional guidelines for the increased continuing education requirement. The subsequent Commission rule requires that at least 9 of the 18 required CE hours must be core topic courses.
- You may be exempted from continuing education if you are elected or appointed to a government position where you spend substantial time addressing real estate issues. Don't assume you are automatically exempted. You have to be approved for exemption by the Commission and the Division before you submit your license renewal.
- You must report to the Division **within ten business days** any of the following:
  - o the **entry** of a criminal conviction against you;
  - o the entry of a plea in abeyance to a criminal charge against you;

- o your entering into a diversion agreement to resolve a criminal charge against you;
- o your **filing** of a personal or brokerage bankruptcy

We see many renewal applications where individuals report criminal incidents in response to the renewal licensing questionnaire but failed during the renewal period to report the incidents to the Division within ten business days as required by this statute. When that happens, we almost always put the license on probation—even for a class C misdemeanor traffic incident! Sometimes we take even more severe action. So, please, send us a letter if you go astray of the law.

- You have an additional six months to reinstate an expired license, for a total reinstatement window of one year. However, the longer you wait, the more continuing education you'll have to take.

- Principal brokers, if you want a title company to cut a commission check directly to a sales agent, you can provide written instructions authorizing that. However, the title company must still give the check to you, and you must pass it along to the sales agent. The Commission promulgated **Rule 162-4-4** to track with this legislative change.

The Commission has amended two additional rules:

- **Rule 162-6.1.9.1** allows you to give a token gift valued up to \$150.00 for an unsolicited referral that results in a transaction. Don't start advertising \$150.00 finder's fees. You can't give cash, and the referrals must be **unsolicited**.
- **Rule 162-3-6** prohibits you from taking one continuing education class multiple times within one renewal period. Sorry, but you just can't sit through a free one-hour seminar five times and count it for five hours. Take it once; then find a new class.



## KAGIE'S KORNER

### CAN A REAL ESTATE AGENT OR ASSOCIATE BROKER BE PAID A COMMISSION DIRECTLY FROM THE TITLE COMPANY?

Quite often Investigator Kagie gets this question posed to him, and until recently the answer was a resounding NO. But this year the Utah State Legislature passed legislation-- Utah Code Annotated Section 61-2-10(1) (b)--that allows a title company to cut a check made payable to an associate broker or agent. However, this statute requires that the check be delivered to the principal broker, as per state statute and administrative rules. The Real Estate Commission on August 21, 2009 approved the following rule, which governs how a title company may disburse commission checks:

#### **R162-4-4. Written Instructions for Commission Distribution by Title Insurance Agent.**

(1) If a principal broker elects to assign a portion or all of the principal broker's compensation to an associate broker or sales agent in accordance with Utah Code Annotated Section 61-2-10, the principal broker shall provide written instructions to the title insurance agent that include the following:

- (a) an identification of the property involved in the real estate transaction;
- (b) an identification of the principal broker and sales agent or associate broker who will receive compensation in accordance with the written instructions;
- (c) a designation of the amount of compensation that will be received by both the principal broker and the sales agent or associate broker; and
- (d) a prohibition against alteration of the written instructions by anyone other than the principal broker.

(2) Items beyond those listed in Subsection (1) may be included in the written instructions at the discretion of the principal broker.

This procedure occurs solely at the discretion of the principal broker and must be done under the principal broker's written instruction and permission. The check must be delivered to the principal broker from the title company, and the broker must then deliver the check to the associate broker or agent.



## Electronic Newsletter!

Are you reading your newsletter online?



The Division of Real Estate would like to thank you for creating a RELMS account!

If you know someone who has not received this newsletter please advise them to log on to [www.realestate.utah.gov](http://www.realestate.utah.gov) and create their very own Real Estate Licensing Management System Account! With so much informative available why would you not want to create a RELMS account?

<https://secure.utah.gov/relms/index.html>



## “COMMON” DEFINITIONS OF REAL ESTATE TERMS.....WHAT DO THEY REALLY MEAN?



**ACTIVATE:** The process of putting a license on active status. Agents may activate a license online through the license management system by paying a \$15 activation fee, affiliating with a company, and getting broker approval.

**ACTIVE:** License is valid. An agent with an active license is affiliated with a broker and is legal to engage in the business of a real estate agent. An active license must be renewed every two years with continuing education.

**EXPIRED:** License is void. An agent must renew or reinstate the license in order to return the license to good standing with the division. A person holding an expired license is **unlicensed**.

**GRACE PERIOD:** **MYTH.** An agent may **NOT** continue to conduct business **AFTER** the license has expired. Anyone who is engaging in **UNLICENSED ACTIVITY** will be disciplined.

**INACTIVATE:** The process of putting a license on inactive status. Agents may inactivate a license online through the license management system by disassociating with a brokerage and obtaining broker approval. Inactivating a license does not exclude the licensee from renewal requirements.

**INACTIVE:** License is in good standing, but agent is unaffiliated with a broker and unable to act as a real estate agent. Inactive agents may activate at any time by meeting the activation requirements. An inactive agent must still renew the license every two years.

**ON HOLD:** **MYTH.** The Division does not place a license “on hold” in any circumstances or for any reason.

**REFERRAL STATUS:** **MYTH.** This is not a term used or recognized by the Division. From what we can tell, the term “referral” is used unofficially in the industry to describe an agent who is not selling, but is seeking compensation for providing referrals. Any agent wishing to receive such compensation must hold an active license.

**REINSTATEMENT:** The process of renewing a license that has been expired for over 30 days. A license may be reinstated for up to one year after the license has expired. Additional continuing education and fees are imposed for reinstatement.

**RENEWAL:** License renewal is required once every two years regardless of whether the license is active or inactive. The renewal must be completed in order to extend the expiration date of the license. If the license is not renewed, the license will expire.

**UNLICENSED ACTIVITY:** See GRACE PERIOD, ON HOLD, INACTIVE, and REFERRAL STATUS above. Working as a real estate agent or broker without an active real estate license is unlicensed activity.



# Active or Inactive Mortgage Licensees Must Transition Into NMLS

Beginning January 4, 2010, the Utah Division of Real Estate will be transitioning to the new Nationwide Mortgage Licensing System (NMLS). Each licensee who wishes to maintain his license, whether in an active or inactive status, must transition his/her license. This also applies to all mortgage entities as well. Letters have been mailed out to all licensees explaining this process and the steps involved. If you did not receive your letter, you will find a copy on our web page at [www.realestate.utah.gov](http://www.realestate.utah.gov).

It is important that you have your current license number in order to transition. All license numbers are 7 digits followed by 4 letters, for example 7560488-MLAF. For the purposes of this transition, use only the first 7 digits, for example 7560488, where requested in the NMLS system. If you are unsure of your number, please verify it in RELMS before transitioning your records. This will prevent the system from charging you for a new license.



# THANK YOU FOR READING YOUR DIVISION OF REAL ESTATE NEWSLETTER ONLINE!!

## [www.realestate.utah.gov](http://www.realestate.utah.gov) ON-LINE RELMS

### Available Online Services:

- Renew License
- Change Address
- Change License Status
- Change Affiliation
- Manage Company Roster
- Order Duplicate License
- View CE Courses Taken
- View and Order License History

*\*\*It also shows banked non-certified continuing education\*\**

### **Utah!** NEWS **DIVISION of REAL ESTATE**

*Division Director* ..... Deanna Sabey  
*Editor/Contributor* ..... Mark Fagergren  
*Contributor/Layout*..... Tiffeni Wall  
*Contributor*.....Jennie Jonsson  
*Contributor*.....Van Kagie

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*Utah Division of Real Estate  
 Department of Commerce  
 160 East 300 South (84111)  
 PO Box 146711  
 Salt Lake City, UT 84114-6711  
 (801) 530-6747 main line*

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## THANK YOU COMMISSIONER SAMPSON

As I have finished my four year term as a Real Estate Commissioner I look back over those years and it was an awesome experience. I was able to serve with very capable Real Estate and industry professionals who had the interest of the public and the Real Estate profession at the top of the list. Also, I was able to work with a couple of great Division Directors who had the same interest and vision enabling us to work together to accomplish great things for our industry and the people of Utah.

Just a few things that come to mind: Being able to raise the bar for those entering into our profession assuring the public of a better educated and a more professional licensee. With the help of the Real Estate educators and the State Legislature we were able to increase the number of hours required to get a license and also the number of house of continuing education to renew our licenses. We were able to spell out classes that are required for new licensees during their first licensing period so as to help educate them on the basic needed to represent the public and be a better licensee. With the help of the Attorney Generals office we were able to write rules and regulations governing our industry to assure that those who violate the rules and regulations come before the commission for a hearing in a timely manner. We were also able to raise the amount of the fines that can be levied hopefully making those who want to do business that would be harmful or misleading to the public think again before engaging in such action. There is much more, but needless to say, great people are working together to accomplish great things.



There is a lot of going being done by your commissioners and the excellent staff at the Real Estate Division and also the Utah Association of Realtors to enhance our profession and protect the general public in this great State. It was a pleasure to work with all of them and all of the licensees in the state.

Thanks again for the opportunity to serve...



**HAPPY NEW YEAR**

<b>SAFE: 2009 and 2010 Changes</b>			
	<b>Existing Licensees</b>	<b>New Licensees (UNTIL December 31, 2009)</b>	<b>New Licensees (AFTER December 31, 2009)</b>
<b>License Expiration</b>	December 31, 2010 Licenses will then be annual	December 31, 2010 Licenses will then be annual	December 31, 2010 Licenses will then be annual
<b>Pre-license Education</b>	None required. Each licensee will be required to pay a \$15.00 certification fee to NMLS.	20 hours of Utah DRE approved education. Each licensee will be required to pay a \$15.00 certification fee to NMLS	20 hours of NMLS education AND 40 additional hours of Utah DRE-education.
<b>Background Checks</b>	Beginning in 2010, all licensees will be required to complete a background check every 3 years through NMLS.	Beginning in 2010, all licensees will be required to complete a background check every 3 years through NMLS.	All licensees will be required to complete a background check every 3 years through NMLS.
<b>Testing</b>	Prior to December 31, 2010, licensees will have to pass the new NMLS national exam.  Those licensees who have passed the Utah state exam (regardless of their passing score) do <b>NOT</b> have to retake the NMLS Utah portion of the state exam. Each licensee will be required to pay a \$5.00 certification fee to NMLS.	<b>Now until December 31, 2009:</b> Pass national NMLS exam at NMLS testing center. Must also pass Utah state portion of exam at Utah DRE Pearson Vue test center.	<b>January 1, 2010-Feb. 21, 2010:</b> Pass national NMLS exam at NMLS testing center. Must also pass Utah state portion of exam at Utah DRE Pearson Vue test center.  <b>February 22, 2010 and thereafter:</b> Pass the national and Utah NMLS exams at NMLS testing center.
<b>Continuing Education</b>	Licenses will complete 14 hours of Utah DRE or NMLS CE for 2010 renewal (Including a min. of 2 hrs of Ethics and 3 hrs Federal/State laws governing mortgage lending).  Subsequent renewals will require 8 hrs of <b>NMLS</b> CE including 3 hrs federal law and regulations, 2 hrs of ethics (fraud, consumer protection, and fair lending practices), 2 hrs non-traditional mortgages, and 1 hr elective	<b>Now until December 31, 2009:</b> Licensees will complete 8 hrs of Utah DRE or NMLS CE including 3 hrs federal law and regulations, 2 hrs of ethics (fraud, consumer protection, and fair lending practices), 2 hrs non-traditional mortgages, and 1 hr elective. for 2010 renewal. Subsequent renewals will require 8 hrs of <b>NMLS</b> CE in topics described above.	Licenses will complete 8 hrs of Utah DRE or NMLS CE including 3 hrs federal law and regulations, 2 hrs of ethics (fraud, consumer protection, and fair lending practices), 2 hrs non-traditional mortgages, and 1 hr elective; for 2010 renewal. Subsequent renewals will require 8 hrs of <b>NMLS</b> CE in topics described above.
<b>Fees</b>	State fees will remain unchanged NMLS fees will be added	State fees will remain unchanged NMLS fees will be added	State fees will remain unchanged NMLS fees will be added