

R162-2f-102. Definitions.

- (1) "Active license" means a license granted to an applicant who:
 - (a) qualifies for licensure under Section 61-2f-203 and these rules;
 - (b) pays all applicable nonrefundable license fees; and
 - (c) affiliates with a principal brokerage.
- (2) "Advertising" means solicitation through:
 - (a) newspaper;
 - (b) magazine;
 - (c) Internet;
 - (d) e-mail;
 - (e) radio;
 - (f) television;
 - (g) direct mail promotions;
 - (h) business cards;
 - (i) door hangers;
 - (j) signs; or
 - (k) any other medium.
- (3) "Affiliate":
 - (a) when used in reference to licensure, means to form, for the purpose of providing a real estate service, an employment or non-employment association with another individual or entity licensed or registered under Title 61, Chapter 2f et seq. and these rules; and
 - (b) when used in reference to an undivided fractionalize long-term estate, means an individual or entity that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, a specified individual or entity.
- (4) "Branch broker" means an associate broker who manages a branch office under the supervision of the principal broker.
- (5) "Branch office" means a principal broker's real estate brokerage office other than the principal broker's main office.
- (6) "Brokerage" means a real estate sales or a property management company.
- (7) "Brokerage record" means any record related to the business of a principal broker, including:
 - (a) record of an offer to purchase real estate;
 - (b) record of a real estate transaction, regardless of whether the transaction closed;
 - (c) licensing records;
 - (d) banking and other financial records;
 - (e) independent contractor agreements;
 - (f) trust account records, including:
 - (i) deposit records in the form of a duplicate deposit slip, deposit advice, or equivalent document; and
 - (ii) conveyance records in the form of a check image, wire transfer verification, or equivalent document; and
 - (g) records of the brokerage's contractual obligations.
- (8) "Business day" is defined in Subsection 61-2f-102(3).
- (9) "Certification" means authorization from the division to:
 - (a) establish and operate a school that provides courses approved for prelicensing education

- or continuing education; or
 - (b) function as an instructor for courses approved for prelicensing education or continuing education.
- (10) "Commission" means the Utah Real Estate Commission.
- (11) "Continuing education" means professional education required as a condition of renewal in accordance with Section R162-2f-204 and may be either:
- (a) core: topics identified in Subsection R162-2f-206c(5)(c); or
 - (b) elective: topics identified in Subsection R162-2f-206c(5)(e).
- (12) "Correspondence course" means a self-paced real estate course that:
- (a) is not distance or traditional education; and
 - (b) fails to meet real estate educational course certification standards because:
 - (i) it is primarily student initiated; and
 - (ii) the interaction between the instructor and student lacks substance and/or is irregular.
- (13) "Day" means calendar day unless specified as "business day."
- (14) (a) "Distance education" means education in which the instruction does not take place in a traditional classroom setting, but occurs through other interactive instructional methods where teacher and student are separated by distance and sometimes by time, including the following:
- (i) computer conferencing;
 - (ii) satellite teleconferencing;
 - (iii) interactive audio;
 - (iv) interactive computer software;
 - (v) Internet-based instruction; and
 - (vi) other interactive online courses.
- (b) "Distance education" does not include home study and correspondence courses.
- (15) "Division" means the Utah Division of Real Estate.
- (16) "Double contract" means executing two or more purchase agreements, one of which is not made known to the prospective lender or loan funding entity.
- (17) "Expired license" means a license that is not renewed pursuant to Section 61-2f-204 and Section R162-2f-204 by:
- (a) the close of business on the expiration date, if the expiration date falls on a day when the division is open for business; or
 - (b) the next business day following the expiration date, if the expiration date falls on a day when the division is closed.
- (18) "Guaranteed sales plan" means:
- (a) a plan in which a seller's real estate is guaranteed to be sold; or
 - (b) a plan whereby a licensee or anyone affiliated with a licensee agrees to purchase a seller's real estate if it is not purchased by a third party:
 - (i) in the specified period of a listing; or
 - (ii) within some other specified period of time.
- (19) "Inactive license" means a license that has been issued pursuant to Sections R162-2f-202a through 202c or renewed pursuant to Section R162-2f-204, but that may not be used to conduct the business of real estate because the license holder is not affiliated with a principal broker. Pursuant to Section R162-2f-203, a license may be inactivated:

- (a) voluntarily, with the assent of the license holder; or
 - (b) involuntarily, without the assent of the license holder.
- (20) "Informed consent" means written authorization, obtained from both principals to a single transaction, to allow a licensee to act as a limited agent.
- (21) "Limited agency" means the representation of all principals in the same transaction to negotiate a mutually acceptable agreement:
- (a) subject to the terms of a limited agency agreement; and
 - (b) with the informed consent of all principals to the transaction.
- (22) "Net listing" means a listing agreement under which the real estate commission is the difference between the actual selling price of the property and a minimum selling price as set by the seller.
- (23) (a) "Non-certified education" means a continuing education course offered outside of Utah, but for which a licensee may apply for credit pursuant to Subsection R162-2f-206c(1)(b).
- (b) "Non-certified education" does not include:
- (i) home study courses; or
 - (ii) correspondence courses.
- (24) "Nonresident applicant" means a person:
- (a) whose primary residence is not in Utah; and
 - (b) who qualifies under Title 61, Chapter 2f et seq. and these rules for licensure as a principal broker, associate broker, or sales agent.
- (25) "Principal brokerage" means the main real estate or property management office of a principal broker.
- (26) "Principal" in a transaction means an individual who is represented by a licensee and may be:
- (a) the buyer or lessee;
 - (b) an individual having an ownership interest in the property;
 - (c) an individual having an ownership interest in the entity that is the buyer, seller, lessor, or lessee; or
 - (d) an individual who is an officer, director, partner, member, or employee of the entity that is the buyer, seller, lessor, or lessee.
- (27) "Provider" means an individual or business that is approved by the division to offer continuing education.
- (28) "Property management" is defined in Subsection 61-2f-102(19).
- (29) "Registration" means authorization from the division to engage in the business of real estate as:
- (a) a corporation;
 - (b) a partnership;
 - (c) a limited liability company;
 - (d) an association;
 - (e) a dba;
 - (f) a professional corporation;
 - (g) a sole proprietorship; or
 - (h) another legal entity of a real estate brokerage.
- (30) "Reinstatement" is defined in Subsection 61-2f-102(22).
- (31) "Reissuance" is defined in Subsection 61-2f-102(23).
- (32) The acronym RELMS means "real estate licensing and management system," which is the online database through which licensees shall submit licensing information to the division.

- (33) "Renewal" is defined in Subsection 61-2f-102(24).
- (34) "Residential property" means real property consisting of, or improved by, a single-family one-to four-unit dwelling.
- (35) "School" means:
 - (a) any college or university accredited by a regional accrediting agency that is recognized by the United States Department of Education;
 - (b) any community college or vocational-technical school;
 - (c) any local real estate organization that has been approved by the division as a school; or
 - (d) any proprietary real estate school.
- (36) "Sponsor" means the party that is the seller of an undivided fractionalized long-term estate.
- (37) "Third party service provider" means an individual or entity that provides a service necessary to the closing of a specific transaction and includes:
 - (a) mortgage brokers;
 - (b) mortgage lenders;
 - (c) loan originators;
 - (d) title service providers;
 - (e) attorneys;
 - (f) appraisers;
 - (g) providers of document preparation services;
 - (h) providers of credit reports;
 - (i) property condition inspectors;
 - (j) settlement agents;
 - (k) real estate brokers;
 - (l) marketing agents;
 - (m) insurance providers; and
 - (n) providers of any other services for which a principal or investor will be charged.
- (38) "Traditional education" means education in which instruction takes place between an instructor and students where all are physically present in the same classroom.
- (39) "Undivided fractionalized long-term estate" is defined in Subsection 61-2f-102(26).