

NEWSLETTER

A PUBLICATION FOR UTAH'S REAL ESTATE,
APPRAISAL, & MORTGAGE PROFESSIONALS

IN THIS ISSUE

- Director's Message
- Rule Developments
- The Office of the Homeowners' Association Ombudsman: A Resource for Utah Residents
- Introducing: The Residential Construction Fraud Task Force
- Don't Let Your License Lapse! The Importance of Timely CE and Record Keeping
- How-To Videos: Your Guide to Common Questions
- Background Checks and Credit Reports Required For Mortgage License Renewal This Year
- AARMR Conference Recap
- Appraiser Mentorship Program Announcement
- An Important Update for Appraisers: New Education Requirements Coming January 1, 2026
- Kagie's Corner: Listing Agreements and Agent Brokerage Changes – A Clarification
- Can Real Estate Licensees Assist with a Tax Appeal?
- Disciplinary Actions

DIRECTOR'S MESSAGE

Residential Real Estate Reporting

Dear Licensees,

I wanted to use my message this quarter to share some important information regarding a new federal requirement that may impact your business. Please note that this is not a new state regulation from our agency but a rule issued by the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN).

FinCEN has implemented a new rule purportedly aimed at increasing transparency in the U.S. residential real estate market to combat money laundering and other illicit activities.

What this means for you: Beginning December 1, 2025, certain professionals involved in non-financed residential real estate transfers to legal entities or trusts will be required to submit reports to FinCEN. This new requirement is intended to deter the illicit use of residential real estate and bolster our nation's economic and national security.

You can file a Real Estate Report (RER) at no cost through FinCEN's BSA E-Filing System. While third-party service providers are available to assist with this process, they may charge fees for their services.

Even if you aren't the party directly responsible for filing the report, it's important to be aware of this new requirement. We anticipate that your clients and other professionals you work with will have questions about it, so staying informed is key.

We encourage you to familiarize yourselves with this federal requirement. For more detailed information, please visit [the official FinCEN website](https://fincen.gov/rre) (fincen.gov/rre).

Our understanding is that this rule may be the subject of pending lawsuits and/or legislative challenges. For this reason, we highly recommend signing up to "Subscribe to FinCEN News Updates" on FinCEN's website to stay in the know.

As always, thank you for your commitment to professionalism in your respective fields.

Sincerely,
Leigh

RULE DEVELOPMENTS

Since June 1, 2025

To view and comment on any proposed or amended rules during the public comment period, please visit the Utah State Bulletin at <http://www.rules.utah.gov/publications/bulletin.htm>

Appraisal Management Company Rules

There are no proposed rule amendments under consideration for the AMC Administrative Rule at this time.

Appraisal

There are no proposed rule amendments under consideration for the Real Estate Appraiser Licensing and Certification Administrative Rule at this time.

Mortgage

There are no proposed rule amendments under consideration for the Utah Residential Mortgage Practicing and Licensing Rule at this time.

Real Estate

The Real Estate Rules Committee continues to meet to discuss the Real Estate Licensing and Practices Rule, addressing rules related to co-brokering between licensed brokers practicing in both the commercial and residential real estate industries and changes that will result from the recent legislative amendments affecting the property management industry. A draft rule amendment is being prepared and the committee continues to meet.

Timeshare and Camp Resort

There are no proposed rule amendments under consideration for the Timeshare and Camp Resort Rule at this time.

THE OFFICE OF THE HOMEOWNERS' ASSOCIATION OMBUDSMAN

A Resource for Utah Residents

We are pleased to announce the opening of the Office of the Homeowners' Association Ombudsman (Office), a new resource created within the Utah Department of Commerce. This Office aims to assist unit owners, lot owners, and their respective associations by fostering greater understanding and compliance with state statutes governing community associations.

The Office will have 3 primary responsibilities:

1. Maintain the HOA registry
2. Issue Advisory Opinions on matters of state law
3. Provide educational materials and resources to the public

Maintain the HOA Registry

The HOA Registry exists to ensure transparency and accessibility to community members. Significant legislative updates have changed the relationship of associations to the HOA Registry. All community associations, even those that have previously registered through the old system on the Utah Department of Commerce website, will be required to submit an updated registration (separate from a corporate registration with the Division of Corporations) through the Office's [new portal](#) before the old registry is discontinued on October 31, 2025. Additionally, associations must now (1) annually renew their registration and (2) update their registration within 90 days after any change. The fee to apply for or renew a registration is \$90. There is no cost associated with updating an existing registration.

Any association that is not current in its registration may not impose or enforce a lien against a homeowner. If a unit or lot is conveyed to an independent third party during a period of noncompliance, any lien that arose before the conveyance is extinguished, and no new lien can arise for events that occurred before the conveyance if it becomes final before the association ends its noncompliance. Compliance can be re-established by registering, updating, or renewing the registration.

Issue Advisory Opinions

Any association or homeowner in an association may request a written Advisory Opinion from the Office. To request an Advisory Opinion, the applicant must file the request through the Office website and pay a non-refundable filing fee of \$150. The Office is only able to issue Advisory Opinions on questions of state law, which means they cannot interpret governing documents or mediate contractual disputes. We encourage anyone who has questions about an issue with their HOA to call the Office to determine if the issue may be appropriate for an Advisory Opinion.

Issued Advisory Opinions will be published on the Office's website as a resource for the public. It is important to note that Advisory Opinions are not legally binding upon the parties, but if the same issue is later litigated in court, and a judge agrees with the Office's assessment, the prevailing party may be awarded attorney's fees.

Provide Educational Resources

The Office is dedicated to ensuring that all Utah community association stakeholders have access to the information and guidance necessary to comply with state law. The Office can provide personalized training services to anyone wanting to know more about community associations. These services are designed to address specific issues within the Office's jurisdiction and can be delivered in person or virtually, offering flexibility and accessibility to communities across the state on topics such as board member duties, rights and responsibilities of board members and homeowners, or what you should know before buying into an HOA community. If you would like to request a training from the Office, please fill out this [form](#) or call the Office for more information.

In addition to trainings, the Office will soon be publishing educational materials online to address common topics and questions. Be sure to check back often as new information is added to the website.

To contact the Office of the Homeowners' Association Ombudsman, please call 801-530-6670 or send an email to hoaoffice@utah.gov. Learn more at www.commerce.utah.gov/hoa.

INTRODUCING: THE RESIDENTIAL CONSTRUCTION FRAUD TASK FORCE

Governor Cox has identified barriers to homeownership and affordable housing as the "single greatest threat to Utah's prosperity." Many public resources are focused on addressing this issue, which is a cornerstone of the "Built Here" initiative. The Utah ["Built Here" Strategic Plan](#) calls for 35,000 new starter homes and 40,000 new homes in regional centers by December 2028.

One impediment to these goals is fraud targeting the residential construction industry. Utahns report hundreds of cases yearly, which is likely only the tip of the iceberg. Unscrupulous actors steal not just money but the hopes and dreams of families who want a home to call their own. Not only are the victims harmed, but the cost of fraud also passes on to the economy as a whole, driving up home prices and injuring legitimate businesses. Homebuyers also may be wary of buying an older home that needs work if there are concerns about potential construction fraud, further impacting the odds of finding an affordable home.

To combat these harms, the Utah Department of Commerce is leading a new Residential Construction Fraud Task Force. The Task Force has three primary objectives:

- improved construction fraud enforcement;
- outreach and education efforts to consumers and industry; and
- regulatory reform.

This multifaceted approach will work with industry liaisons to identify issues in the residential construction and improvement industry and to create solutions that promote growth while aggressively pursuing bad actors and holding them responsible for the harm they cause.

One of the key functions of the Task Force is coordinating law enforcement actions. Working with a new, dedicated criminal prosecutor in the Utah Attorney General's Office, the Task Force will work to bring criminal actions against the worst offenders. The enforcement unit will also focus on training other prosecutors on these cases, and will work to improve communication between state agencies and local law enforcement to refer cases for the most appropriate types of enforcement action.

The Utah Division of Professional Licensing Assistant Director Jana Johansen and Utah Division of Consumer Protection Assistant Director Blake Young are leading the task force. Justin Morrill is the task force prosecutor. Please feel free to contact the task force at cftf@utah.gov if you have any questions or would like to report an issue.

DON'T LET YOUR LICENSE LAPSE!

The Importance of Timely CE and Record Keeping

As a real estate licensee, staying on top of your continuing education (CE) is not just a regulatory requirement – it's crucial for the smooth operation of your business and the protection of your license. At the division, we want to ensure our licensees are well-informed and prepared for a seamless renewal process.

The Golden Rule: Complete CE by the 15th!

Your real estate license renewal window opens **45 days before expiration**. This gives you ample time to complete your required continuing education and submit your renewal application. However, we strongly recommend completing all your CE by the **15th of the month your license expires**. Why the urgency?

- **Avoid Late Fees and Reinstatement Fees:** Failing to renew your license on time can result in late and/or reinstatement fees.
- **Prevent Interruption of Business:** An expired license means you cannot legally engage in real estate transactions. This can cause disruption to your clients, pending deals, and income! By renewing on time, you ensure uninterrupted business activity and maintain your professional standing.
- **If you answer "YES" to any of the questions on the Questionnaire** (criminal or license sanctions), our staff will require extra time for review before a renewal can be processed.

Your Records, Your Responsibility: Keep Those Certificates!

While the division tracks your CE course completions, we strongly suggest that you **keep records of all continuing education course completion certificates**. These certificates serve as your official proof of completion and are invaluable for several reasons:

- **Verification:** In the rare instance of a record discrepancy, your personal certificates are the ultimate proof of your compliance.
- **Personal Reference:** Your certificates provide a clear overview of your professional development and can be helpful in your own business planning.

Stay Connected: Update Your Email!

Communication is key. The division sends out important renewal notices to the email address on file. **Please ensure your email address with the division is always up-to-date.** We send out three separate renewal notices, providing detailed information on:

- The renewal process;
- Continuing education requirements; and
- The current status of your license.

These notices are designed to guide you through the renewal process and prevent surprises. Don't miss out on vital information because of an outdated email address!

In summary, proactive planning is your best asset when it comes to license renewal.

Complete your CE early (preferably by the 15th of your renewal month), keep meticulous records of your completion certificates, and always ensure your contact information with the division is current. By following these simple steps, you can avoid unnecessary stress, fees, and interruptions to your successful real estate career.

HOW-TO VIDEOS

Your Guide to Commons Questions

We're excited to announce the launch of our brand-new "How-To" video series!

To streamline your experience and provide instant answers to your most common questions, we've created a dynamic library of instructional videos with corresponding written guides.

Here's a sneak peek at what's live right now:

- Creating your UtahID
- Linking your license
- Looking up Continuing Education (CE) credits
- Inactivating your sales agent license
- Navigating affiliation changes for sales agents
- Printing a copy of your license
- For Principal Brokers: Accepting incoming affiliation requests
- For Principal Brokers: Acknowledging outgoing affiliation requests

Ready to dive in? Head over to our website at <https://realestate.utah.gov/>. You'll find a new "How-To Videos" banner prominently displayed on every page. Just click the banner to get immediate access to our video library.

We're committed to expanding this resource, so be sure to check back often for new additions. Have an idea for a video you'd like to see? Let us know! Send your suggestions to realestate@utah.gov.

A special thank you to our incredible division staff, Leigh Veillette, Sarah Thaler, and Michael Genco, for their dedication and hard work in making this valuable resource a reality.

BACKGROUND CHECKS AND CREDIT REPORTS REQUIRED FOR MORTGAGE LICENSE RENEWAL THIS YEAR

It has been five years since mortgage licensees last submitted a Criminal Background Check (CBC) and Credit Report with their Utah license renewal. In 2013, the Utah Residential Mortgage Regulatory Commission, along with the division, approved [Utah Admin. Code R162-2c-204](#), which requires submission of a CBC and credit report every 5 years beginning with the renewal period of November 1, 2015.

All Utah licensees with an approved Utah license as of October 31, 2025, will be required to authorize and submit a new CBC and credit report starting November 1, 2025, in order to renew their license for 2026. **To avoid problems with your renewal, please DO NOT submit these required items prior to November 1, 2025.**

To prepare for this year's CBC renewal requirement, individuals are encouraged to review and verify whether their fingerprints have **expired or are pending expiration**. You can review the status of your fingerprint record by [logging into your individual MU4 filing on the NMLS](#) and reviewing the Criminal Background Check Requests section under the Composite View Tab. A new CBC will be required at renewal regardless of when you were last fingerprinted. Although fingerprinting may be done ahead of time, a new CBC request will be required at the time the renewal is requested in the NMLS.

Lastly, please check your NMLS filing for any outstanding license items that would prevent you from requesting renewal. Along with the CBC and credit report, please make sure your Continuing Education requirements have been completed and the hours banked in your NMLS profile. **(8 hours NMLS and 1 hr. Utah State Law)** This should be completed no later than October 15th to allow the hours to bank in the system and allow for an on-time renewal. (Please be aware that continuing education providers have up to 10 days to bank the hours in the system.)

AARMR CONFERENCE RECAP

Beyond the Headlines: What's Really Changing in Mortgages?

Every day, the news cycle brings another headline about political shifts impacting the mortgage industry. But what's happening behind the scenes, away from the constant noise?

Our division recently attended a four-day AARMR conference focused on proactive solutions rather than reactive responses. This event brought together regulators and industry experts to address the need for state stability and consistent regulation to ensure the long-term health of home lending. It wasn't just a discussion; it was a look into the future, exploring the power of collaboration, the importance of open communication, and the incredible potential of new mortgage technology and changing consumer demands.

Mortgage Market Outlook

The residential mortgage market is currently undergoing a significant transformation, marked by several key trends, according to a presentation at the conference by [Marina B. Walsh of the Mortgage Bankers Association](#). The following are insights from that presentation.

The market is seeing a considerable slowdown in house price appreciation. This, combined with growing uncertainty and increased inventory, has led to a market with more sellers than buyers in certain areas of the U.S.

Despite these challenges, mortgage purchase applications continue to outpace 2024's figures, signaling a persistent demand for homeownership. This demand is driving the exploration of less traditional financing methods, such as: the use of alternate credit scores, and cryptocurrency as collateral or a direct asset for qualification.

These market dynamics contribute to a positive outlook for lending, with the mortgage origination dollar volume forecasted to increase in 2025. Independent Mortgage Bankers (IMBs) are playing a crucial role in this environment, having achieved a 17-year high market share in originations in 2024 and maintaining majority shares across all product types. However, the profitability picture for IMBs is mixed; pre-tax net production income for IMBs is close to break-even, and profit in Q1 2025 varies significantly by firm size and average loan balance. Encouragingly, 58 percent of independents were profitable when combining both production and servicing business lines in the most recent quarter.

In terms of industry employment, the sector is seeing a leveling off. The servicing landscape also presents a dynamic picture, with IMB servicers continuing to gain share. This sector is managing year-over-year increases in delinquency rates and a slight pick-up in foreclosure starts. Historically, servicers have provided substantial support, having administered approximately 8.7 million forbearances since March 2020.

Cracking the Code: AI Breakthroughs Shaping Tomorrow

Twenty-five years ago, contemplating the idea of using the World Wide Web to get a mortgage online was revolutionary; today, we're asking the same big questions about AI.

The financial industry is rapidly embracing AI, with new technologies like Generative AI (GenAI), which can create new content, and Large Language Models (LLMs) that generate human-like text. The next frontier is Agentic AI, which can make its own decisions. For financial services, GenAI is already a game-changer, helping to create documents, analyze data, and power chatbots. The purported benefits include: lower costs, faster services, and improved security and compliance.

The Risks and the Rules

Despite the promise, using AI comes with significant risks. A major concern is that LLMs can "hallucinate," generating false but plausible information, including fake legal citations. This happens because these models are designed to predict the next word, not retrieve facts like a search engine. A critical warning is that anything you put into a public GenAI tool is not confidential.

The legal landscape is also evolving at lightning speed. The U.S. government is shifting its focus from simply regulating AI harms to positioning the country as a global AI leader. Regulators are issuing new guidelines, and states are creating their own laws to cover everything from deep fakes to data privacy.

Did you know: The Utah Department of Commerce, which houses the division, is also home to the [Office of Artificial Intelligence Policy](#)? This first-of-its-kind office works to strengthen trust in AI activities in Utah through data-driven policy, timely regulatory adjustments, and innovation-enabling regulatory relief.

Responsible AI Use

As AI becomes more common, it's crucial to use it responsibly. Companies are creating formal policies and ethical guidelines to manage the risks. Best practices include having an AI Risk Management Framework and an Authorized Use Policy that clearly defines what the

technology can and cannot be used for. A key rule is to "trust but verify": always fact-check AI outputs, especially legal and financial information. Ultimately, AI should be a tool that enhances human work, not replaces it.

Mortgage Watch: State Regulators' Trends of Misconduct

State regulators at the conference reported unearthing a disturbing pattern of misconduct. Regulators found companies to be operating outside the bounds of licensure, with loans tied to mysterious sources and a complicated network of offshore activities.

Adding to the list of offenses, regulators have found companies overcharging customers on recording fees and failing to issue refunds for the difference. Payments were being processed by unlicensed vendors, and the companies at issue couldn't produce documentation to show employees were properly trained. Ultimately, it appears their own internal policies were ignored.

Cybersecurity Caution:

The mortgage industry, which holds extensive sensitive financial and personal data, is a prime target for increasingly sophisticated cyberattacks. In today's interconnected digital landscape, staying ahead of these threats isn't just a good idea—it's essential. To protect both their systems and clients, the mortgage industry is advised to prioritize having a comprehensive incident response plan as a crucial shield in its cybersecurity arsenal. Utah mortgage licensees can find additional information about security requirements at [Utah Admin. Code R162-2c-302](#).

The 4-Day Journey: Key Takeaways and Lasting Connections

Over the four days, the AARMR conference explored a wide range of topics, but a few key themes emerged as central to the future of the mortgage industry. The prevailing sentiment among attendees was a shared commitment to building a stronger, more resilient industry. We saw a clear desire to create better products and provide enhanced support, fostering an environment of open communication between industry leaders and state regulators. There was also a strong consensus on the need for consistent regulation across states, with many endorsing the expansion of multi-state examinations to promote transparency and collaboration. As we move forward, the focus must remain on ensuring that all industry practices uphold the highest standards of integrity.

APPRAISER MENTORSHIP PROGRAM ANNOUNCEMENT

Get ready to share your expertise and shape the future of real estate! The division's highly anticipated Appraiser Mentorship Program is now open for applications.

We're looking for experienced appraisers who are passionate about sharing their knowledge and elevating the profession. This is a unique opportunity to directly guide real estate professionals and strengthen the appraisal field.

If you're interested in becoming a mentor, simply email Appraisal and Mortgage Enforcement Supervisor Bryn Kaelin at bkaelin@utah.gov. Once we receive your information, we'll send you an overview of the program and the mentor application.

This is your chance to make a lasting impact. Don't miss out on this fantastic opportunity to share your wisdom and help build a stronger real estate community.

AN IMPORTANT UPDATE FOR APPRAISERS

New Education Requirements Coming January 1, 2026

Starting January 1, 2026, all credentialed appraisers will be subject to new national education requirements. These changes are designed to provide in-depth and detailed education on valuation bias and fair housing laws and regulations, ensuring every appraiser is equipped with the knowledge to maintain the highest standards in the profession.

Appraisers must successfully complete a course that meets the content requirements of the Valuation Bias and Fair Housing Laws and Regulations Outline. This course is required every two calendar years. The first time you take it, the course must be seven hours in length. However, if you have already completed a seven-hour course (plus a one-hour exam) as part of your qualifying education, you have already met this initial requirement. Every two calendar years after your first completion, the course length must be at least four hours. The eight-hour course is identical in content to the seven-hour course but includes an additional hour for a required exam.

The new education requirement has also been integrated into the qualifying education for aspiring appraisers. This has resulted in a change to the required hours for trainees and licensed appraisers. The total qualifying education hours for a trainee will increase to 83 hours (not including the supervisor/trainee course), and for licensed appraisers, the total will increase to 158 hours (not including the supervisor/trainee course). For Certified Residential and Certified General appraisers, the total number of qualifying education hours has remained the same, accomplished by lowering the number of Appraisal Subject Matter Elective hours.

A critical detail for anyone applying for a license upgrade: if you submit your application and are approved to take the national exam before January 1, 2026, but your application for the new license is submitted after that date, you will be required to complete the eight-hour Valuation Bias and Fair Housing Laws and Regulations course before your new license can be issued.

These education requirements have been incorporated into the [Real Estate Appraiser Licensing and Certification Administrative Rules, Utah Admin. Code R162-2g](#).

KAGIE'S CORNER: LISTING AGREEMENTS AND AGENT BROKERAGE CHANGES – A CLARIFICATION

By: Investigator Van Kagie

A common question we receive at the Division is: What happens to a listing agreement when a real estate agent transitions from one brokerage to another?

It is crucial to understand that a listing agreement is a legally binding contract between a seller and the **Principal Broker** of the brokerage, not the individual agent. Since the agreement is a personal service contract, it is not assignable. Consequently, an agent cannot simply "take" a listing with them when they change brokerages.

For a listing to be moved to a new brokerage, the following professional process must be followed:

1. **Termination of the Original Agreement:** The original listing agreement must be formally terminated. This requires the mutual, written consent of both the seller and the Principal Broker. Without this termination, the original brokerage retains the exclusive right to market the property.
2. **Seller's Options:** Upon termination of the original agreement, the seller has several options:
 - They may choose to enter into a new listing agreement with the transferring agent at their new brokerage.
 - They may list the property with a different licensee at another brokerage.
 - They may decide to sell the property on their own (For Sale By Owner).
 - They may choose to remove the property from the market entirely.
3. **New Listing Agreement:** If the seller and the transferring agent wish to continue their relationship, a new, separate listing agreement must be executed between the seller and the **Principal Broker** of the new brokerage. This new agreement must be in writing. Any marketing of the property by the new brokerage without a valid, signed agreement from the seller constitutes a violation of Division statutes and rules. The agent cannot compel the client to continue using their services, as the agency relationship with the original broker has been legally terminated.

Important Note on "Transfer Forms": The Division has observed the use of "transfer forms" in an attempt to facilitate this process. It is critical to note that such forms are not legally valid for transferring a listing. A listing agreement is a contract of personal service and cannot be "transferred" or assigned between brokerages. The only correct procedure is to formally **terminate** the existing agreement with the unconditional withdrawal of the listing and then execute a **new** listing agreement with the new brokerage.

Adhering to this process ensures compliance with all legal and regulatory requirements, protects all parties involved, and maintains the integrity of the real estate transaction.

CAN REAL ESTATE LICENSEES ASSIST WITH A TAX APPEAL?

By: Chief of Enforcement Kadee Wright

Recently, I presented at the Utah Association of Realtors Convention and provided the exceptions to appraisal licensure for real estate licensees. What I failed to include in my presentation was another exception that allows individuals to assist in tax appeals under certain conditions. Let's break it down.

Homeowners often look for ways to contest property tax assessments, and turning to a licensed real estate professional for data, such as recent comparable sales or a Comparative Market Analysis (CMA), is a common first step. But does a real estate licensee providing market data for a tax appeal cross the line into unlicensed appraisal activity?

The Broker Exemption

Generally, certain real estate valuation activities require a person to be licensed or certified as an appraiser. However, the appraisal statute carves out specific exceptions relevant to licensed real estate professionals.

[Utah Code § 61-2g-301 License or certification required.](#)

(1) Except as provided in Subsection (2), it is unlawful for a person to prepare, for valuable consideration, an appraisal, an appraisal report, a certified appraisal report, or perform a consultation service relating to real estate or real property in this state without first being licensed or certified in accordance with this chapter.

(2) This section does not apply to:

(a) a principal broker, associate broker, or sales agent as defined by Section 61-2f-102 licensed by this state who, in the ordinary course of the broker's or sales agent's business, gives an opinion regarding the value of real estate:

- (i) to a potential seller or third-party recommending a listing price of real estate; or
- (ii) to a potential buyer or third-party recommending a purchase price of real estate;

A licensed principal broker, associate broker, or sales agent, operating in the ordinary course of their business, is specifically permitted to provide an opinion regarding the value of real estate to a potential seller recommending a listing price or to a potential buyer recommending a purchase price.

Furthermore, the law makes a specific allowance for individuals providing information for the sole purpose of a property tax appeal. An individual who is not an appraiser and who presents or provides a price estimate, evidence, or property tax information solely for a property tax appeal may do so as long as the estimate is based on what the property would sell for and is not an opinion of value.

[Utah Code § 61-2g-301 License or certification required.](#)

- (1) Except as provided in Subsection (2), it is unlawful for a person to prepare, for valuable consideration, an appraisal, an appraisal report, a certified appraisal report, or perform a consultation service relating to real estate or real property in this state without first being licensed or certified in accordance with this chapter.
- (2) This section does not apply to:

....

- (i) an individual who is not an appraiser who presents or provides a price estimate, evidence, or property tax information solely for a property tax appeal in accordance with Section 59-2-1017.

For example, evidence would be a printout of recent comparable sales, and a price estimate may include a CMA. This is not just semantics. A licensed principal broker, associate broker, or sales agent may provide the property owner with a CMA. However, unless they are also a licensed or certified appraiser, they may not provide an opinion of value (an appraisal).

Defining the Data: Price Estimate vs. Opinion of Value

The key distinction lies in what the real estate licensee is providing: a price estimate or an opinion of value. Under [Utah Code § 59-2-1017 Property tax appeal assistance:](#)

1. **Price Estimate (The CMA):** A "price estimate" means an estimate of the price that a property would sell for. Crucially, the statute specifies that a price estimate is not an opinion of value. A broker's CMA generally fits the definition of a price estimate or "property tax information" (which means providing information related to a property tax appeal).
2. **Opinion of Value (The Appraisal):** An "opinion of value" is defined as an estimate of fair market value that is made by a licensed or certified appraiser and must generally comply with the Uniform Standards of Professional Appraisal Practice (USPAP).

Therefore, a broker providing a CMA to support a tax appeal is usually providing a price estimate or presenting evidence or property tax information, activities which are specifically

exempted from appraisal licensing and certification requirements when done solely for the purpose of a property tax appeal.

It is important to note that an opinion of value or report containing value conclusions that are exempt under certain subsections may not be referred to as an **"appraisal report"**.

Compensation

When a sales agent performs any activity that uses the brokerage's resources, they are acting as an agent for the brokerage. Preparing a CMA typically requires access to the MLS, which requires a license; therefore, it is a service being performed as a licensee and the compensation must run through the brokerage.

[Utah Code § 61-2f-303 Sales agents or associate broker– Affiliated with principal broker as independent contractors or employees – Presumption.](#)

....

(2) The presumption of an independent contractor relationship extends to all of the duties and services that the sales agent or associate broker performs, including the preparation and receipt of payment for a broker price opinion.

Practice Tip: When providing comparable sales or a CMA for the purposes of a tax appeal, ensure it is an accurate representation.

THIRD QUARTER DISCIPLINARY ACTIONS

Please note that Utah law allows 30 days for appeal of an order. Some of the actions below might be subject to this appeal right or currently under appeal.

APPRAISAL/AMC

DAVID BRUCE BUNKER, Certified Residential Appraiser, expired, Monticello, Utah. Mr. Bunker has a prior disciplinary action with the Division from 2017. In a stipulated order dated August 28, 2025, Mr. Bunker admitted that he made several revisions to an appraisal at the request of the lender but only retained the final appraisal report in his workfile. The sales comparables he used for the appraisal did not support his estimated opinion of value. Mr. Bunker used a predetermined method of adjustment for finished and unfinished basement area with no support for these adjustments in his workfile. He calculated the estimated opinion of value by determining the average and median of all comparables without considering which comparables were more similar to the subject. Mr. Bunker agreed that these acts and practices are violations of Utah law and the Uniform Standards of Professional Appraisal Practice (USPAP). He agreed to have his certification suspended, including any residual reinstatement rights. Docket number RE-2025-014 and Division Case number 151588

JEFFREY J EATON, Certified Residential Appraiser, Riverton, Utah. Mr. Eaton has prior disciplinary actions with the Division from 2008 and 2024. In a stipulated order dated July 10, 2025, Mr. Eaton admits to having violated Utah law and the Uniform Standards of Professional Appraisal Practice with regard to the valuation of property located in Monticello, Utah. This was his first assignment in San Juan County and he admits that he could have been more diligent in being competent. His valuation identified the subject as one parcel of 6.97 acres, however, the tax data identified a two-acre site. The plat map does not delineate the subject property boundaries, omits site dimension information, and does not distinguish between the subject parcel and other parcels included in the valuation. The appraisal report included several errors and inconsistencies in adjustments to comparables and the commercial use and the zoning of one of the comparables. These errors and inconsistencies render the estimated opinion of value as not credible and a commercial analysis is beyond the scope of authority for Mr. Eaton's certified residential credential. Mr. Eaton agreed to pay a civil penalty of \$3,000 and to complete four hours of continuing education in addition to the continuing education required for his next license renewal. Docket number RE-2025-029 and Division Case number 150038

LUTHER MARSHAL PALMER, Certified Residential Appraiser, Heber City, Utah. In a stipulated order dated September 2, 2025, Mr. Palmer admitted to having violated Utah law and the Uniform Standards of Professional Appraisal Practice, in that an appraisal report he completed incorrectly identifies the zoning of the subject and one of the comparables, the sales comparison approach was deficient, the report fails to provide objective data to support his opinions and conclusions, and his workfile did not contain all supporting data. Mr. Palmer agreed to pay a civil penalty of \$3,000 and to complete four hours of continuing education in addition to the continuing education required for his next license renewal. Docket number RE-2025-041 and Division Case number 150881

MORTGAGE

ALEXANDER CASTRO, Mortgage Loan Originator, West Valley City, Utah. In a stipulated order dated July 2, 2025, Mr. Castro admitted that he represented a buyer in a transaction as both buyer's sales agent and mortgage loan originator, in violation of Utah law. Mr. Castro agreed to pay a civil penalty of \$5,046.62, the amount he was paid for his services in originating the mortgage loan, with a credit to offset any payments made for the civil penalty in the real estate sales agent case with the Division. In addition, Mr. Castro's mortgage loan originator license is placed on probation for one year. Docket number RE-2025-052 and Division Case number 160162

GUARANTEED RATE AFFINITY, LLC, Mortgage Lender Company, Chicago, Illinois, with unregistered branches in Salt Lake City and Park City, Utah. In a stipulated order dated July 2, 2025, Guaranteed Rate Affinity, LLC admitted that it failed to ensure consistent registration and supervision of its Utah branch offices, in violation of Utah law and administrative rules. Guaranteed Rate Affinity, LLC agreed to pay a civil penalty of \$10,000. Docket number RE-25-5083 and Division Case number MG-22-137336

REAL ESTATE

Please note that publication of real estate disciplinary actions is subject to [Utah Code § 61-2f-402\(6\)](#).

MICHELLE CARMAN and AGF MANAGEMENT, LLC, unlicensed, Utah. In an order dated August 18, 2025, the Real Estate Commission found Ms. Carman and AGF Management, LLC, in violation Utah law and administrative rules when they repeatedly engaged in the business of leasing and managing real estate for numerous clients without being licensed, failed to notify the Division of a change in AGF Management's affiliation upon the death of the principal broker, and failed to notify their management clients that AGF Management was no longer in business. The Real Estate Commission imposed a civil penalty of \$15,000 with the

provision that the amount of the penalty will be reduced to \$12,000 if paid within 30 days of the date of the order. The Commission also ordered that they inform each of their clients that they are no longer able to provide property management services and if the client desires professional property management services, they should seek a licensed property manager. Docket number RE-24-5082 and Division Case number RE-21-127314

BRYNN FERGUSON, Sales Agent, Lehi, Utah. In a stipulated order dated August 20, 2025, Ms. Ferguson admitted to numerous violations of Utah law and administrative rules. Ms. Ferguson was previously licensed as a real estate sales agent. Her license is now revoked. While licensed, she was hired as an accounting manager for a licensed real estate brokerage. As accounting manager, Ms. Ferguson was responsible for accounting and payroll and had access to the brokerage bank accounts, credit card accounts, and payroll systems. Over a period of more than two years, Ms. Ferguson made hundreds of unauthorized purchases and charged personal expenses which she paid for with a company credit card. She used both the brokerage operating account and the brokerage trust account to pay the credit card account for these unauthorized charges. Some of the unauthorized credit card transactions were later discovered to have occurred outside of the Salt Lake County area and coincided with dates and locations where she was known to be traveling. Ms. Ferguson submitted "filtered" reports to the brokerage which omitted her personal, unauthorized transactions. She also made seven unauthorized transfers from the brokerage bank accounts directly into her personal bank account. In addition, she made false entries into the payroll system regarding her time resulting in payroll payments to her for time which she did not work. Without the knowledge or approval of her employer, Ms. Ferguson used brokerage funds to fraudulently "reimburse" her for personal, unauthorized expenses. On September 20, 2024, Ms. Ferguson pleaded guilty and entered into a plea in abeyance agreement in case number 231907174 (Third Judicial District, State of Utah) with regard to a charge of theft, a 2nd degree felony. The court ordered Ms. Ferguson to pay restitution to the real estate brokerage in the amount of \$182,596.81 and placed her on probation for 36 months. The plea agreement also requires that she complete 75 hours of community service and complete therapy. In the stipulation with the Division, Ms. Ferguson agreed to pay a civil penalty in the amount of \$192,596.81, with a dollar for dollar credit for restitution paid to the real estate brokerage in case number 231907174. To receive this credit, she must provide evidence of the restitution paid. She also agreed that she may not hold a real estate license for ten years or until after she has paid the civil penalty, whichever is longer. Docket number RE-23-5014 and Division case number RE-21-127811

STANLEY J MCNAUGHTON, Sales Agent, St. George, Utah. In a stipulated order dated August 20, 2025, Mr. McNaughton admitted that he did not have a written agency agreement with a seller he represented. In addition, Mr. McNaughton and the agents who represented the buyer are affiliated with the same brokerage and they did not obtain a limited agency

consent form from the principals in the transaction. These actions violate Utah administrative rules. Mr. McNaughton agreed to pay a civil penalty of \$2,000 and to complete three hours of continuing education in addition to the continuing education required for his next license renewal. Docket number RE-2025-076 and Division case number 146907

BRANDON A PHELPS, Sales Agent, Farmington, Utah. In a stipulated order dated August 20, 2025, the Division and Mr. Phelps resolved three complaints against him. In one case, Mr. Phelps listed a property for sale. During the marketing process, he was informed that his client was not the true owner of the property. The true owners learned of his marketing efforts and requested that he remove the listing. He complied with this request. Mr. Phelps admits that advertising the property was false or misleading and was done without the written consent of the true owners, in violation of Utah law and administrative rules.

In the second and third cases, Mr. Phelps participated in two foreclosure rescue transactions. In each of these transactions, title to the property was transferred to a limited liability company owned in part by Mr. Phelps, with a lease and option to (re)purchase in favor of the sellers. Mr. Phelps paid the mortgage arrearages. The sellers got behind on their lease payments and were served with eviction notices. Mr. Phelps admits that his conduct in these rescue foreclosure transactions was in violation of Utah law. Mr. Phelps agreed to pay a civil penalty of \$60,000 that will be reduced to \$30,000 if Mr. Phelps transfers title of the property to the seller in the foreclosure rescue transaction and \$30,000 of the civil penalty amount is paid within 90 days. In addition, he is to complete three hours of continuing education in addition to the continuing education required for his next license renewal. Docket number RE-2025-046 and Division case numbers 146767, 144061, and 150236

TIMESHARE

There were no disciplinary actions in the Timeshare industry in the first quarter.

CREDITS

NEWSLETTER

Credits

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