

LICENSING STANDARDS FOR MILITARY SPOUSES

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: Brian M. Greene

LONG TITLE

General Description:

This bill modifies occupational and professional licensing requirements for certain individuals serving in the military and for certain spouses of individuals serving in the military.

Highlighted Provisions:

This bill:

- ▶ provides certain exemptions from occupational and professional licensure in a variety of occupations and professions, including for:
 - an individual serving in the military if the individual has a valid license in another jurisdiction; and
 - a spouse of an individual serving in the military if the spouse has a valid license in another jurisdiction.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-23a-104, as last amended by Laws of Utah 2014, Chapters 290 and 300

31A-26-202, as last amended by Laws of Utah 2008, Chapter 382

61-2f-202, as last amended by Laws of Utah 2017, Chapter 182

ENACTS:

- 30 4-1-111, Utah Code Annotated 1953
- 31 13-1-12, Utah Code Annotated 1953
- 32 53-9-122, Utah Code Annotated 1953
- 33 53-11-125, Utah Code Annotated 1953
- 34 53E-6-204, Utah Code Annotated 1953
- 35 61-1-32, Utah Code Annotated 1953



36
37 *Be it enacted by the Legislature of the state of Utah:*

38 Section 1. Section 4-1-111 is enacted to read:

39 **4-1-111. Exemptions from licensure.**

40 Except as otherwise provided by statute or rule, the following individuals may engage
41 in the practice of an occupation or profession regulated by this title, subject to the stated
42 circumstances and limitations, without being licensed under this title:

43 (1) an individual licensed under the laws of this state, other than under this title, to
44 practice or engage in an occupation or profession, while engaged in the lawful, professional,
45 and competent practice of that occupation or profession;

46 (2) an individual serving in the armed forces of the United States, the United States
47 Public Health Service, the United States Department of Veterans Affairs, or any other federal
48 agency while engaged in activities regulated under this title as a part of employment with that
49 federal agency if the individual holds a valid license to practice the regulated occupation or
50 profession issued by any other state or jurisdiction recognized by the department; and

51 (3) the spouse of an individual serving in the armed forces of the United States while
52 the individual is stationed within this state, if:

53 (a) the spouse holds a valid license to practice the regulated occupation or profession
54 issued by any other state or jurisdiction recognized by the department; and

55 (b) the license is current and the spouse is in good standing in the state or jurisdiction
56 of licensure.

57 Section 2. Section 13-1-12 is enacted to read:

58 **13-1-12. Exemptions from licensure.**

59 Except as otherwise provided by statute or rule, the following individuals may engage
60 in the practice of an occupation or profession regulated by this title, subject to the stated
61 circumstances and limitations, without being licensed under this title:

62 (1) an individual licensed under the laws of this state, other than under this title, to
63 practice or engage in an occupation or profession, while engaged in the lawful, professional,
64 and competent practice of that occupation or profession;

65 (2) an individual serving in the armed forces of the United States, the United States
66 Public Health Service, the United States Department of Veterans Affairs, or any other federal
67 agency while engaged in activities regulated under this title as a part of employment with that
68 federal agency if the individual holds a valid license to practice the regulated occupation or
69 profession issued by any other state or jurisdiction recognized by the department; and

70 (3) the spouse of an individual serving in the armed forces of the United States while
71 the individual is stationed within this state, if:

72 (a) the spouse holds a valid license to practice the regulated occupation or profession
73 issued by any other state or jurisdiction recognized by the department; and

74 (b) the license is current and the spouse is in good standing in the state or jurisdiction
75 of licensure.

76 Section 3. Section **31A-23a-104** is amended to read:

77 **31A-23a-104. Application for individual license -- Application for agency license.**

78 (1) This section applies to an initial or renewal license as a:

- 79 (a) producer;
- 80 (b) surplus lines producer;
- 81 (c) limited line producer;
- 82 (d) consultant;
- 83 (e) managing general agent; or
- 84 (f) reinsurance intermediary.

85 (2) (a) Subject to Subsection (2)(b), to obtain or renew an individual license, an

86 individual shall:

87 (i) file an application for an initial or renewal individual license with the commissioner
88 on forms and in a manner the commissioner prescribes; and

89 (ii) except as provided in Subsection (6), pay a license fee that is not refunded if the
90 application:

91 (A) is denied; or

92 (B) is incomplete when filed and is never completed by the applicant.

93 (b) An application described in this Subsection (2) shall provide:

94 (i) information about the applicant's identity;

95 (ii) the applicant's Social Security number;

96 (iii) the applicant's personal history, experience, education, and business record;

97 (iv) whether the applicant is 18 years of age or older;

98 (v) whether the applicant has committed an act that is a ground for denial, suspension,
99 or revocation as set forth in Section [31A-23a-105](#) or [31A-23a-111](#);

100 (vi) if the application is for a resident individual producer license, certification that the
101 applicant complies with Section [31A-23a-203.5](#); and

102 (vii) any other information the commissioner reasonably requires.

103 (3) The commissioner may require a document reasonably necessary to verify the
104 information contained in an application filed under this section.

105 (4) An applicant's Social Security number contained in an application filed under this
106 section is a private record under Section [63G-2-302](#).

107 (5) (a) Subject to Subsection (5)(b), to obtain or renew an agency license, a person
108 shall:

109 (i) file an application for an initial or renewal agency license with the commissioner on
110 forms and in a manner the commissioner prescribes; and

111 (ii) pay a license fee that is not refunded if the application:

112 (A) is denied; or

113 (B) is incomplete when filed and is never completed by the applicant.

- 114 (b) An application described in Subsection (5)(a) shall provide:
- 115 (i) information about the applicant's identity;
- 116 (ii) the applicant's federal employer identification number;
- 117 (iii) the designated responsible licensed individual;
- 118 (iv) the identity of the owners, partners, officers, and directors;
- 119 (v) whether the applicant has committed an act that is a ground for denial, suspension,
- 120 or revocation as set forth in Section 31A-23a-105 or 31A-23a-111; and
- 121 (vi) any other information the commissioner reasonably requires.

122 (6) The following individuals are exempt from paying a license fee:

123 (a) an individual serving in the armed forces of the United States while the individual
124 is stationed within this state, if:

125 (i) the individual holds a valid license to practice the regulated occupation or
126 profession issued by any other state or jurisdiction recognized by the department; and

127 (ii) the license is current and the individual is in good standing in the state or
128 jurisdiction of licensure; and

129 (b) the spouse of an individual serving in the armed forces of the United States while
130 the individual is stationed within this state, if:

131 (i) the spouse holds a valid license to practice the regulated occupation or profession
132 issued by any other state or jurisdiction recognized by the department; and

133 (ii) the license is current and the spouse is in good standing in the state or jurisdiction
134 of licensure.

135 Section 4. Section 31A-26-202 is amended to read:

136 **31A-26-202. Application for license.**

137 (1) (a) The application for a license as an independent adjuster or public adjuster shall
138 be:

139 (i) made to the commissioner on forms and in a manner the commissioner prescribes;

140 and

141 (ii) except as provided in Subsection (4), accompanied by the applicable fee, which is

142 not refunded if the application is denied.

143 (b) The application shall provide:

144 (i) information about the applicant's identity, including:

145 (A) the applicant's:

146 (I) Social Security number; or

147 (II) federal employer identification number;

148 (B) the applicant's personal history, experience, education, and business record;

149 (C) if the applicant is a natural person, whether the applicant is 18 years of age or
150 older; and

151 (D) whether the applicant has committed an act that is a ground for denial, suspension,
152 or revocation as set forth in Section 31A-25-208; and

153 (ii) any other information as the commissioner reasonably requires.

154 (2) The commissioner may require documents reasonably necessary to verify the
155 information contained in the application.

156 (3) An applicant's Social Security number contained in an application filed under this
157 section is a private record under Section 63G-2-302.

158 (4) The following individuals are exempt from paying a license fee:

159 (a) an individual serving in the armed forces of the United States while the individual
160 is stationed within this state, if:

161 (i) the individual holds a valid license to practice the regulated occupation or
162 profession issued by any other state or jurisdiction recognized by the department; and

163 (ii) the license is current and the individual is in good standing in the state or
164 jurisdiction of licensure; and

165 (b) the spouse of an individual serving in the armed forces of the United States while
166 the individual is stationed within this state, if:

167 (i) the spouse holds a valid license to practice the regulated occupation or profession
168 issued by any other state or jurisdiction recognized by the department; and

169 (ii) the license is current and the spouse is in good standing in the state or jurisdiction

170 of licensure.

171 Section 5. Section **53-9-122** is enacted to read:

172 **53-9-122. Exemptions from licensure.**

173 Except as otherwise provided by statute or rule, the following individuals may engage
174 in the practice of an occupation or profession regulated by this title, subject to the stated
175 circumstances and limitations, without being licensed under this title:

176 (1) an individual licensed under the laws of this state, other than under this title, to
177 practice or engage in an occupation or profession, while engaged in the lawful, professional,
178 and competent practice of that occupation or profession;

179 (2) an individual serving in the armed forces of the United States, the United States
180 Public Health Service, the United States Department of Veterans Affairs, or any other federal
181 agency while engaged in activities regulated under this title as a part of employment with that
182 federal agency if the individual holds a valid license to practice the regulated occupation or
183 profession issued by any other state or jurisdiction recognized by the department; and

184 (3) the spouse of an individual serving in the armed forces of the United States while
185 the individual is stationed within this state, if:

186 (a) the spouse holds a valid license to practice the regulated occupation or profession
187 issued by any other state or jurisdiction recognized by the department; and

188 (b) the license is current and the spouse is in good standing in the state or jurisdiction
189 of licensure.

190 Section 6. Section **53-11-125** is enacted to read:

191 **53-11-125. Exemptions from licensure.**

192 Except as otherwise provided by statute or rule, the following individuals may engage
193 in the practice of a private investigator regulated by this chapter, subject to the stated
194 circumstances and limitations, without being licensed under this chapter:

195 (1) an individual serving in the armed forces of the United States, the United States
196 Public Health Service, the United States Department of Veterans Affairs, or any other federal
197 agency while engaged in activities regulated under this chapter as a part of employment with

198 that federal agency if the individual holds a valid private investigator license issued by any
199 other state or jurisdiction recognized by the department; and

200 (2) the spouse of an individual serving in the armed forces of the United States while
201 the individual is stationed within this state, if:

202 (a) the spouse holds a valid private investigator license issued by any other state or
203 jurisdiction recognized by the department; and

204 (b) the license is current and the spouse is in good standing in the state or jurisdiction
205 of licensure.

206 Section 7. Section **53E-6-204** is enacted to read:

207 **53E-6-204. Exemptions from licensure.**

208 Except as otherwise provided by statute or rule, a spouse of an individual serving in the
209 armed forces of the United States while the individual is stationed within this state may work
210 as an educator without being licensed under this title if:

211 (1) the spouse holds a valid educator license issued by any other state or jurisdiction
212 recognized by the board; and

213 (2) the license is current and the spouse is in good standing in the state or jurisdiction
214 of licensure.

215 Section 8. Section **61-1-32** is enacted to read:

216 **61-1-32. Exemptions from licensure.**

217 Except as otherwise provided by statute or rule, the following individuals may engage
218 in the practice of an occupation or profession regulated by this chapter, subject to the stated
219 circumstances and limitations, without being licensed under this chapter:

220 (1) an individual licensed under the laws of this state, other than under this chapter, to
221 practice or engage in an occupation or profession, while engaged in the lawful, professional,
222 and competent practice of that occupation or profession;

223 (2) an individual serving in the armed forces of the United States, the United States
224 Public Health Service, the United States Department of Veterans Affairs, or any other federal
225 agency while engaged in activities regulated under this title as a part of employment with that

226 federal agency if the individual holds a valid license to practice the regulated occupation or
227 profession issued by any other state or jurisdiction recognized by the department; and

228 (3) the spouse of an individual serving in the armed forces of the United States while
229 the individual is stationed within this state, if:

230 (a) the spouse holds a valid license to practice the regulated occupation or profession
231 issued by any other state or jurisdiction recognized by the department; and

232 (b) the license is current and the spouse is in good standing in the state or jurisdiction
233 of licensure.

234 Section 9. Section **61-2f-202** is amended to read:

235 **61-2f-202. Exempt persons and transactions.**

236 (1) (a) Except as provided in Subsection (1)(b), a license under this chapter is not
237 required for:

238 (i) a person who as owner or lessor performs an act described in Subsection
239 **61-2f-102**(18) with reference to real estate owned or leased by that person;

240 (ii) a regular salaried employee of the owner or lessor of real estate who, with reference
241 to nonresidential real estate owned or leased by the employer, performs an act described in
242 Subsection **61-2f-102**(18)(b) or (c);

243 (iii) a regular salaried employee of the owner of real estate who performs property
244 management services with reference to real estate owned by the employer, except that the
245 employee may only manage real estate for one employer;

246 (iv) an individual who performs property management services for the apartments at
247 which that individual resides in exchange for free or reduced rent on that individual's
248 apartment;

249 (v) a regular salaried employee of a condominium homeowners' association who
250 manages real estate subject to the declaration of condominium that established the
251 condominium homeowners' association, except that the employee may only manage real estate
252 for one condominium homeowners' association; and

253 (vi) a regular salaried employee of a licensed property management company or real

254 estate brokerage who performs support services, as prescribed by rule, for the property
255 management company or real estate brokerage.

256 (b) Subsection (1)(a) does not exempt from licensing:

257 (i) an employee engaged in the sale of real estate regulated under:

258 (A) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act; or

259 (B) Title 57, Chapter 19, Timeshare and Camp Resort Act;

260 (ii) an employee engaged in the sale of cooperative interests regulated under Title 57,
261 Chapter 23, Real Estate Cooperative Marketing Act; or

262 (iii) an individual whose interest as an owner or lessor is obtained by that individual or
263 transferred to that individual for the purpose of evading the application of this chapter, and not
264 for another legitimate business reason.

265 (2) A license under this chapter is not required for:

266 (a) an isolated transaction or service by an individual holding an unsolicited, duly
267 executed power of attorney from a property owner;

268 (b) services rendered by an attorney admitted to practice law in this state in performing
269 the attorney's duties as an attorney;

270 (c) a receiver, trustee in bankruptcy, administrator, executor, or an individual acting
271 under order of a court;

272 (d) a trustee or employee of a trustee under a deed of trust or a will;

273 (e) a public utility, officer of a public utility, or regular salaried employee of a public
274 utility, unless performance of an act described in Subsection [61-2f-102](#)(18) is in connection
275 with the sale, purchase, lease, or other disposition of real estate or investment in real estate
276 unrelated to the principal business activity of that public utility;

277 (f) a regular salaried employee or authorized agent working under the oversight of the
278 Department of Transportation when performing an act on behalf of the Department of
279 Transportation in connection with one or more of the following:

280 (i) the acquisition of real estate pursuant to Section [72-5-103](#);

281 (ii) the disposal of real estate pursuant to Section [72-5-111](#);

- 282 (iii) services that constitute property management; or
- 283 (iv) the leasing of real estate; and
- 284 (g) a regular salaried employee of a county, city, or town when performing an act on
- 285 behalf of the county, city, or town:
- 286 (i) in accordance with:
- 287 (A) if a regular salaried employee of a city or town:
- 288 (I) Title 10, Utah Municipal Code; or
- 289 (II) Title 11, Cities, Counties, and Local Taxing Units; and
- 290 (B) if a regular salaried employee of a county:
- 291 (I) Title 11, Cities, Counties, and Local Taxing Units; and
- 292 (II) Title 17, Counties; and
- 293 (ii) in connection with one or more of the following:
- 294 (A) the acquisition of real estate, including by eminent domain;
- 295 (B) the disposal of real estate;
- 296 (C) services that constitute property management; or
- 297 (D) the leasing of real estate.
- 298 (3) A license under this chapter is not required for an individual registered to act as a
- 299 broker-dealer, agent, or investment adviser under the Utah and federal securities laws in the
- 300 sale or the offer for sale of real estate if:
- 301 (a) (i) the real estate is a necessary element of a "security" as that term is defined by the
- 302 Securities Act of 1933 and the Securities Exchange Act of 1934; and
- 303 (ii) the security is registered for sale in accordance with:
- 304 (A) the Securities Act of 1933; or
- 305 (B) Title 61, Chapter 1, Utah Uniform Securities Act; or
- 306 (b) (i) it is a transaction in a security for which a Form D, described in 17 C.F.R. Sec.
- 307 239.500, has been filed with the Securities and Exchange Commission pursuant to Regulation
- 308 D, Rule 506, 17 C.F.R. Sec. 230.506; and
- 309 (ii) the selling agent and the purchaser are not residents of this state.

310 (4) Except as otherwise provided by statute or rule, the following individuals may
311 engage in the practice of an occupation or profession regulated by this chapter, subject to the
312 stated circumstances and limitations, without being licensed under this chapter:

313 (a) an individual licensed under the laws of this state, other than under this chapter, to
314 practice or engage in an occupation or profession, while engaged in the lawful, professional,
315 and competent practice of that occupation or profession;

316 (b) an individual serving in the armed forces of the United States, the United States
317 Public Health Service, the United States Department of Veterans Affairs, or any other federal
318 agency while engaged in activities regulated under this title as a part of employment with that
319 federal agency if the individual holds a valid license to practice the regulated occupation or
320 profession issued by any other state or jurisdiction recognized by the department; and

321 (c) the spouse of an individual serving in the armed forces of the United States while
322 the individual is stationed within this state, if:

323 (i) the spouse holds a valid license to practice the regulated occupation or profession
324 issued by any other state or jurisdiction recognized by the department; and

325 (ii) the license is current and the spouse is in good standing in the state or jurisdiction
326 of licensure.

327 [~~4~~] (5) As used in this section, "owner" does not include:

328 (a) a person who holds an option to purchase real property;

329 (b) a mortgagee;

330 (c) a beneficiary under a deed of trust;

331 (d) a trustee under a deed of trust; or

332 (e) a person who owns or holds a claim that encumbers any real property or an
333 improvement to the real property.

334 [~~5~~] (6) The commission, with the concurrence of the division, may provide, by rule
335 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
336 circumstances under which a person or transaction qualifies for an exemption that is described
337 in this section.

