

NOTICES OF PROPOSED RULES

~~(2) After loan funds have been disbursed, the state agency shall complete and provide to the SBEEP manager, a report which shall include the following:~~

~~(a) a description of the performance of the building and of the performance of the measures included in the energy efficiency project using the approved objective and verifiable post-construction measures, that take into account fluctuations in energy costs and temperature, approved in the loan application process;~~

~~(b) a description of any problems that have occurred with the building or the project;~~

~~(c) a description of any changes to the building or to its operations that would cause a change in its energy consumption;~~

~~(d) copies of energy bills incurred for the building during the prior year such as electric and utility bills or shipping invoices for fuels such as fuel oil or propane;~~

~~(e) documentation of energy consumed by the building in the prior year; and~~

~~(f) other information requested by the SBEEP manager or deemed important by the state agency.~~

~~(3) Approximately one year after project completion, the SBEEP manager will conduct a site visit to the location of the energy efficiency project to verify project completion and assess the success of the project. Additional site visits may also be conducted by the SBEEP manager during the repayment period. Loan recipients will assist the SBEEP manager with such site visits, including providing access to all components of the energy efficiency project.~~

~~KEY: energy, efficiency, agencies, loans~~

~~Date of Last Change: February 8, 2023~~

~~Notice of Continuation: July 11, 2018~~

~~Authorizing, and Implemented or Interpreted Law: 63A-5b-1003]~~

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R162-2c	Filing ID: 55495

Agency Information

1. Department:	Commerce	
Agency:	Real Estate	
Room number:	2nd Floor	
Building:	Heber M Wells	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84101	
Mailing address:	PO Box 146711	
City, state and zip:	Salt Lake City, UT 84114-6711	
Contact persons:		
Name:	Phone:	Email:
Justin Barney	801-530-6603	justinbarney@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

**2. Rule or section catchline:**  
R162-2c. Utah Residential Mortgage Practices and Licensing Rules

**3. Reason for this change:**  
The Residential Mortgage Regulatory Commission has become increasingly concerned about the possible misuse of customer information following a breach of a mortgage entity's security.

The reason for the proposed rule amendment is to protect the public by requiring that a mortgage entity meet minimum customer information security requirements and, when a suspected security breach occurs, requiring that the mortgage entity notify affected customers of the breach.

In addition, the Commission wishes to address minimum standards for supervision of mortgage loan originators and staff members in response to the growing teleworking movement.

**4. Summary of this change:**  
The proposed rule clarifies that the oversight required of a lending manager over sponsored mortgage loan originators and staff includes supervision of those who telework.

The proposed rule requires that a lending manager include conditions of privacy and security of customer information, encryption of data, password management, and use of a secured virtual private network in the policies and procedures that the lending manager is required to establish, maintain, and enforce.

The proposed rule also requires that a mortgage entity notify its customers in the event of a suspected security breach if misuse of the customer's personal information is likely to occur as a result of the security breach.

Fiscal Information

**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

**A) State budget:**  
The Division of Real Estate (Division) has the staff and budget in place to administer the proposed rule amendment. None of the proposed changes is expected to impact the state's budget. After conducting a thorough analysis, there is no anticipated cost or savings to the state budget.

<p><b>B) Local government:</b></p> <p>Local governments are not required to comply with or enforce the Utah Residential Mortgage Practicing and Licensing Rules. This rule is not expected to have a fiscal impact on local governments' revenues or expenditures.</p>
<p><b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):</p> <p>1. Information Security. The proposed rule amendment would require the lending manager of residential mortgage entities to establish, maintain, and enforce customer information security requirements, including securing customer information, encrypting data, password management, and maintenance of a virtual private network (information security requirements).</p> <p>The Division estimates that 600 (about 70%) of the approximately 862 licensed mortgage entities are small businesses.</p> <p>The Division estimates that approximately 480 (about 80%) of these small businesses already contract with an outside business for the information security services or they employ staff to provide the information security that would be required by the proposed rule amendment and would not incur any cost for the information security requirements of the proposed rule amendment.</p> <p>The Division estimates that approximately 120 licensed mortgage entities would need to contract with a provider or employ staff to comply with the information security requirements in the proposed rule amendment.</p> <p>After conducting a thorough analysis, the Division estimates that 120 licensed mortgage entities will either hire staff or will purchase some or all of the information security services required by the proposed rule amendment. The one-time cost to a mortgage entity purchasing all of these services is estimated to be approximately \$4,000, and the on-going annual cost for these mortgage entities is estimated to be approximately \$600 per year, beginning the year following the initial sale.</p> <p>The Division estimate that approximately one-half of the affected small mortgage businesses will purchase these services in fiscal year 2024 and one-half will purchase the services in fiscal year 2024. The total cost to 60 small business mortgage entities is estimated to be \$240,000 in fiscal year 2024 and \$240,000 in fiscal year 2025.</p> <p>Fiscal year 2024 -- 60 businesses x \$4,000 = \$240,000                  Fiscal year 2025 -- 60 businesses x \$4,000 = \$240,000                  Fiscal year 2024 -- 60 businesses x \$600 = \$36,000                  Fiscal year 2025 -- 120 businesses x \$600 = \$72,000                  Fiscal year 2026 -- 120 businesses x \$600 = \$72,000</p>

<p>2. <u>Notice Requirement.</u> Not all mortgage entities will experience a suspected security breach in which misuse of the customer's personal information is likely to occur as a result of the security breach. To protect the public, those mortgage entities that do experience such a suspected breach would be required by the proposed rule amendment to notify affected customers of the suspected breach.</p> <p>Estimating that approximately 15 licensed small business mortgage entities might experience a suspected breach of customer information in any one fiscal year affecting an estimated average of 150 customers for each affected mortgage entity, the total number of customers to be notified by a small business mortgage entity is estimated to be approximately 2,250 customers per fiscal year.</p> <p>Assuming the cost to notify a customer to be approximately \$5.00, the average total annual regulatory cost to residential mortgage entities for notifying customers of a suspected breach would be approximately \$11,250.</p> <p>Each fiscal year -- 15 businesses x 150 customers x \$5 per customer = \$11,250.</p>
<p><b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):</p> <p>1. Information Security. The proposed rule amendment would require licensed residential mortgage entities to establish, maintain, and enforce customer information security requirements, including securing customer information, encrypting data, password management, and maintenance of a virtual private network (information security requirements).</p> <p>The Division estimates that approximately 260 (about 30%) of the licensed mortgage entities are non-small businesses.</p> <p>The Division estimates that all licensed mortgage entities that are non-small businesses already contract with an outside business for the information security services or they employ staff to provide the information security that would be required by the proposed rule amendment and would not incur any cost for the information security requirements of the proposed rule amendment.</p> <p>2. Notice Requirement. Not all mortgage entities will experience a suspected security breach in which misuse of the customer's personal information is likely to occur as a result of the security breach. To protect the public, those mortgage entities that do experience such a suspected breach would be required by the proposed rule amendment to notify affected customers of the suspected breach.</p> <p>Estimating that approximately 5 licensed non-small business mortgage entities might experience a suspected breach of customer information in any one fiscal year affecting an estimated average of 150 customers for each</p>

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affected mortgage entity, the total number of customers to be notified by a non-small business mortgage entity is estimated to be approximately 750 customers per fiscal year.

Assuming the cost to notify a customer to be approximately \$5.00, the average total annual regulatory cost to licensed non-small mortgage entities for notifying customers of a suspected breach would be approximately \$3,750.

Each fiscal year -- 5 businesses x 150 customers x \$5 per customer = \$3,750.

**E) Persons other than small businesses, non-small businesses, or state or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The proposed amendment does not create new obligations for persons other than small businesses, non-small businesses, state, or local government entities nor does it increase the cost associated with any existing obligation. After conducting a thorough analysis, it was determined that the proposed rule amendment will not result in a fiscal impact to persons other than small businesses, businesses, or local government entities.

**F) Compliance costs for affected persons:**

The compliance costs for affected persons are reflected in total in the fiscal impact estimated for affected licensed mortgage entities split between small businesses and non-small businesses. No other compliance cost is anticipated from the proposed rule amendment.

**G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$287,250	\$323,250	\$83,250
Non-Small Businesses	\$3,750	\$3,750	\$3,750
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$291,000</b>	<b>\$327,000</b>	<b>\$87,000</b>
<b>Fiscal Benefits</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>

State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>(\$291,000)</b>	<b>(\$327,000)</b>	<b>(\$87,000)</b>

**H) Department head comments on fiscal impact and approval of regulatory impact analysis:**

The Executive Director of the Department of Commerce, Margaret Busse, has reviewed and approved this regulatory impact analysis.

**Citation Information**

**6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Subsection 61-2c-103(3)	Section 61-2c-301	
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**Public Notice Information**

**8. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	07/31/2023
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<b>9. This rule change MAY become effective on:</b>	08/07/2023
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jonathan Stewart, Director	<b>Date:</b>	04/19/2023
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**R162. Commerce, Real Estate.**

**R162-2c. Utah Residential Mortgage Practices and Licensing Rules.**

**R162-2c-301a. Unprofessional Conduct.**

(1) ~~Mortgage loan originator.~~  
~~\_\_\_\_\_](a) [Affirmative duties.]A mortgage loan originator shall:~~

~~\_\_\_\_\_ (i) [who fails to fulfill any affirmative duty shall be subject to discipline under Sections 61-2c-401 through 61-2c-405. A mortgage loan originator shall:~~

~~\_\_\_\_\_ (i)-]solicit business and market products solely in the name of the mortgage loan originator's sponsoring entity;~~

(ii) conduct the business of residential mortgage loans solely in the name of the mortgage loan originator's sponsoring entity;

(iii) remit to any third-party ~~[third party]~~ service provider the fees- that have been collected from a borrower on behalf of the third-party ~~[third party]~~ service provider, including:

- (A) appraisal fees;
- (B) inspection fees;
- (C) credit reporting fees; and
- (D) insurance premiums;

(iv) turn all records over to the sponsoring entity for proper retention and disposal; and

(v) comply with a division request for information within ten ~~[10]~~ business days of the date of the request.

(b) A mortgage loan originator who fails to fulfill any requirement under Subsection (1)(a) shall be subject to discipline under Sections 61-2c-401 through 61-2c-405.

~~(c) [(b) Prohibited conduct. A mortgage loan originator who engages in any prohibited activity shall be subject to discipline under Sections 61-2c-401 through 61-2c-405.] A mortgage loan originator may not:~~

(i) charge for services not ~~[actually]~~ performed;

(ii) require a borrower to pay more for third-party ~~[third party]~~ services than the ~~[actual]~~ cost of those services;

(iii) withhold, without reasonable justification, payment owed to a third-party ~~[third party]~~ service provider in connection with the business of residential mortgage loans;

(iv) alter an appraisal of real property; or

(v) unless acting under a valid real estate license and not under a mortgage license, perform any act that requires a real estate license under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, including:

(A) providing a buyer or seller of real estate with a comparative market analysis;

(B) assisting a buyer or seller to determine the offering price or sales price of real estate;

(C) representing or assisting a buyer or seller of real estate in negotiations concerning a possible sale of real estate;

(D) advertising the sale of real estate by use of any advertising medium;

(E) preparing, on behalf of a buyer or seller, a Real Estate Purchase Contract, addendum, or other contract for the sale of real property; or

(F) altering, on behalf of a buyer or seller, a Real Estate Purchase Contract, addendum, or other contract for the sale of real property.

(d) A mortgage loan originator who engages in any prohibited activity under Subsection (1)(c) shall be subject to discipline under Sections 61-2c-401 through 61-2c-405.

~~(e)[(e)] A mortgage loan originator does not engage in an activity requiring a real estate license where the mortgage loan originator:~~

(i) offers advice about the consequences that the terms of a purchase agreement might have on the terms and availability of various mortgage products;

(ii) owns real property that the mortgage loan originator offers "for sale by owner"; or

(iii) advertises mortgage loan services in cooperation with a "for sale by owner" seller where the advertising clearly identifies:

(A) the owner's contact information;

(B) the owner's role;

(C) the mortgage loan originator's contact information; and

(D) the specific mortgage-related services that the mortgage loan originator may provide to a buyer; or

(iv) advertises in conjunction with a real estate brokerage where the advertising clearly identifies the:

(A) contact information for the brokerage;

(B) role of the brokerage;

(C) mortgage loan originator's contact information; and

(D) specific mortgage-related services that the mortgage loan originator may provide to a buyer.

~~(2)[Lending manager~~

~~\_\_\_\_\_ (a) Affirmative duties. A lending manager who fails to fulfill any affirmative duty shall be subject to discipline under Sections 61-2c-401 through 61-2c-405.~~

~~\_\_\_\_\_ ](a)(b)] An LM who is designated in the nationwide database as the principal lending manager of an entity shall:~~

(i) be accountable for the affirmative duties outlined in Subsection (1)(a);

(ii) provide to [all] ~~[all]~~ sponsored mortgage loan originators and unlicensed staff specific written policies as to their affirmative duties and prohibited activities, as established by:

(A) federal law governing residential mortgage lending;

(B) state law governing residential mortgage lending and including the Utah Residential Mortgage Practices Act; and

(C) administrative rules promulgated by the division under authority of the Utah Residential Mortgage Practices Act;

(iii) if acting as a PLM or BLM, exercise reasonable supervision over each ~~[all]~~ sponsored mortgage loan originator[s] and ~~[over all]~~ ~~[unlicensed staff working from the licensee's office]~~ member, including each sponsored mortgage loan originator or unlicensed staff member teleworking, by:

(A) directing the details and means of their work activities;

(B) requiring that they read and agree to comply with the Utah Residential Mortgage Practices and Licensing Act and the rules promulgated thereunder;

(C) requiring that they conduct [all] ~~[all]~~ residential mortgage loan business in the name of the sponsoring entity; and

(D) prohibiting unlicensed staff from engaging in any activity that requires licensure;

(iv)(A) establish, maintain, and enforce written policies and procedures to ensure ~~[for ensuring]~~ the independent judgment of each ~~[any]~~ underwriter employed by the PLM's sponsoring entity; and

(B) take corrective action for problems identified through the underwriting process;

(v) establish and follow procedures for responding to [all] ~~[all]~~ consumer complaints;

(vi) establish and maintain a quality control plan that:

(A) complies with HUD and FHA requirements;

(B) complies with Freddie Mac and Fannie Mae requirements; or

(C) includes, at a minimum, procedures for:

(I) performing pre-closing and post-closing audits of at least 10% ~~[ten percent]~~ of [all] ~~[all]~~ loan files; and

(II) taking corrective action for problems identified through the audit process;

(vii) establish, maintain, and enforce written policies and procedures to ensure customer privacy, customer information security, encryption of data, and password management, including a

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cyber security policy that provides that each teleworking employee and sponsored originator must use a secure virtual private network maintained by the sponsoring mortgage entity; ~~the independent judgment of any underwriter employed by the sponsoring entity, whether sponsored from the principal entity location or a branch office; and~~

~~(B) take corrective action for problems identified through the underwriting process; and]~~

(viii) review for compliance with applicable federal and state laws the [all-]advertising and marketing materials and methods used by:

- (A) the PLM's sponsoring entity; and
- (B) the entity's sponsored mortgage loan originators; and
- (ix)(A) actively supervise:
  - (I) any ALM sponsored by the entity; and
  - (II) any BLM who is assigned to oversee the mortgage loan origination activities of a branch office; and

(B) remain personally responsible and accountable for adequate supervision of ~~all-]sponsored mortgage loan originators, unlicensed staff, and entity operations throughout all locations, including persons teleworking.~~

~~(b)[(e)]~~ An LM who is designated as a branch lending manager in the nationwide database shall:

- (i) work from the branch office the LM is assigned to manage;
- (ii) personally oversee the [all-]mortgage loan origination activities conducted through the branch office; and
- (iii) personally supervise the [all-]mortgage loan originators and unlicensed staff affiliated with the branch office.

(c) An LM who fails to fulfill any requirements under Subsections (2)(a) and (2)(b) shall be subject to discipline under Sections 61-2c-401 through 61-2c-405.

~~(d) [Prohibited conduct. An LM who engages in any prohibited activity shall be subject to discipline under Sections 61-2c-401 through 61-2c-405.]~~An LM may not engage in any activity that is prohibited under Subsection (1)(c) or (3)(c) for a mortgage loan originator or a mortgage entity.

(e) An LM who engages in any prohibited activity under Subsection (2)(d) shall be subject to discipline under Sections 61-2c-401 through 61-2c-405.

~~(3)[Mortgage entity. (a) [Affirmative duties. A mortgage entity that fails to fulfill any affirmative duty shall be subject to discipline under Sections 61-2c-401 through 61-2c-405.]~~A mortgage entity shall:

(i) remit to any third-party ~~[third party-]service provider~~ the fees ~~[-]that have been collected from a borrower on behalf of the third-party [third party-]service provider, including:~~

(A) appraisal fees, which shall be remitted no later than 30 days following the date ~~when[on which]~~ the fees are received by the mortgage entity;

- (B) inspection fees;
- (C) credit reporting fees; and
- (D) insurance premiums;

(ii) ~~keep[retain]~~ and dispose of records and customer information according to Section R162-2c-302; and

(iii) comply with a division request for information within ten [40-]business days of the date of the request;

(iv)(A) notify the division of the location from which the entity's PLM will work; and

(B) if the entity originates Utah loans from a location where the PLM is not present to oversee and supervise activities

related to the business of residential mortgage loans, assign a separate LM to serve as the BLM per Subsection 61-2c-102(1)(e);

(v) ensure that:

(I) each sponsored mortgage loan originator fulfills the affirmative duties set forth in ~~[this-]Subsection (1); and~~

(II) each sponsored LM fulfills the affirmative duties set forth in ~~[this-]Subsection (2); and~~

(vi) ~~[if using an incentive program, strictly comply with Subsection R162-2c-301b]~~notify, in writing and without unreasonable delay, each affected customer of a suspected breach of the mortgage entity's security system, if misuse of the customer's personal information occurs or is likely to occur as a result of the suspected security breach.

(b) A mortgage entity that fails to fulfill any requirement under Subsection (3)(a) shall be subject to discipline under Sections 61-2c-401 through 61-2c-405.

~~(c)[(b) [Prohibited conduct.]~~A mortgage entity may not allow[shall be subject to discipline under Sections 61-2c-401 through 61-2c-405 if]:

(i) any sponsored mortgage loan originator or LM to engage[s] in any prohibited conduct; or

(ii) any unlicensed employee to perform[s] an activity that requires a license[for which licensure is required].

(d) A mortgage entity that engages in any prohibited activity under Subsection (3)(c) shall be subject to discipline under Sections 61-2c-401 through 61-2c-405.

~~(4)[Reporting unprofessional conduct. (a) The division shall report in the nationwide database any final disciplinary action taken against a licensee for unprofessional conduct.~~

(b) A licensee may challenge the information entered by the division into the nationwide database pursuant to Section 63G-2-603.

~~(5)[School. (a) [Affirmative duties. A school that fails to fulfill any affirmative duty shall be subject to discipline under Sections 61-2c-401 through 61-2c-405.]~~A school shall:

(i) within 15 calendar days of any material change in the information outlined in Subsection R162-2c-203(1)(b), provide to the division written notice of the change;

(ii) with regard to the criminal history disclosure required under Subsection R162-2c-203(1)(b)(ix),~~[-]~~

(A) obtain each student's signature before allowing the student to participate in course instruction;

(B) ~~keep[retain]~~ each signed criminal history disclosure for a minimum of two years; and

(C) make any signed criminal history disclosure available to the division upon request;

(iii) maintain a record of each student's attendance for a minimum of five years after enrollment;

(iv) upon request of the division, substantiate any claim made in advertising materials;

(v) maintain a high quality of instruction;

(vi) adhere to all state laws and rules [regulations] regarding school and instructor certification;

(vii) provide the instructors ~~[-]~~for each course with the required course content outline;

(viii) require instructors to adhere to the approved course content;

(ix) comply with a division request for information within ten [40-]business days of the date of the request;

(x) upon completion of the course requirements, provide a certificate of completion to each student; and

- (xi) ensure that the material is current in courses taught on:
  - (A) Utah statutes;
  - (B) Utah administrative rules;
  - (C) federal laws; and
  - (D) federal regulations.

(b) A school that fails to fulfill any requirement under Subsection (5)(a) shall be subject to discipline under Sections 61-2c-401 through 61-2c-405.

(c) [(b) Prohibited conduct. A school that engages in any prohibited activity shall be subject to discipline under Sections 61-2c-401 through 61-2c-405.] A school may not:

(i) accept payment from a student without first providing to that student the information outlined in Subsections R162-2c-203(1)(b)(vi) [-]through R162-2c-203(1)(b)(ix);

(ii) continue to operate after the expiration date of the school certification and without renewing;

(iii) continue to offer a course after its expiration date and without renewing;

(iv) allow an instructor whose instructor certification has expired to continue teaching;

(v) allow an individual student to earn more than eight credit hours of education in a single day;

(vi) award credit to a student who has not complied with the minimum attendance requirements;

(vii) allow a student to obtain credit for all or part of a course by taking an examination in lieu of attending the course;

(viii) give valuable consideration to a person licensed with the division under Title 61, Chapter 2c, Utah Residential Mortgage Practices and Licensing Act, [-]for referring students to the school;

(ix) accept valuable consideration from a person licensed with the division under Title 61, Chapter 2c, Utah Residential Mortgage Practices and Licensing Act, [-]for referring students to a licensed mortgage entity;

(x) allow licensed mortgage entities to solicit prospective mortgage loan originators at the school during class time or during the 10-minute break that is permitted during each hour of instruction;

(xi) require a student to attend any program organized for [the purpose of] solicitation;

(xii) make a misrepresentation in its advertising;

(xiii) advertise in any manner that denigrates the mortgage profession;

(xiv) advertise in any manner that disparages a competitor's services or methods of operation;

(xv) advertise or teach any course that has not been certified by the division;

(xvi) advertise a course with language that indicates division approval is pending or otherwise forthcoming; or

(xvii) attempt by any means to obtain or to use in its educational offerings the questions from any mortgage examination unless the questions have been dropped from the current bank of exam questions.

(d) A school that engages in any prohibited activity under Subsection (5)(c) shall be subject to discipline under Sections 61-2c-401 through 61-2c-405.

(6) [Instructor.

\_\_\_\_\_](a) [Affirmative duties. An instructor who fails to fulfill any affirmative duty shall be subject to discipline under Sections 61-2c-401 through 61-2c-405.] An instructor shall:

(i) adhere to the approved outline for any course taught; and

(ii) comply with a division request for information within ten [10-]business days of the date of the request.

(b) An instructor who fails to fulfill any requirement under Subsection (6)(a) shall be subject to discipline under Sections 61-2c-401 through 61-2c-405.

(c) [(b) Prohibited conduct. An instructor who engages in any prohibited activity shall be subject to discipline under Sections 61-2c-401 through 61-2c-405.] An instructor may not:

(i) continue to teach any course after the instructor's certification has expired and without renewing the instructor's certification; or

(ii) continue to teach any course after the course has expired and without renewing the course certification.

(d) An instructor who engages in any prohibited activity under Subsection (6)(c) shall be subject to discipline under Sections 61-2c-401 through 61-2c-405.

**R162-2c-302. Requirements for [Record] the Security, Retention, and Disposal of Records and Customer Information.**

(1) [Record Retention.

\_\_\_\_\_](a) An entity licensed under the Utah Residential Mortgage Practices Act shall maintain and safeguard for the period set forth in Section 61-2c-302 the following records and customer information:

(i) application forms, which include [but are not limited to]:

(A) the initial 1003 form, signed and dated by the loan originator; and

(B) the final 1003 form, signed and dated by the loan originator;

(ii) disclosure forms;

(iii) truth-in-lending forms;

(iv) credit reports and the explanations therefor;

(v) conversation logs;

(vi) verifications of employment, paycheck stubs, and tax returns;

(vii) proof of legal residency, if applicable;

(viii) appraisals, appraisal addenda, and records of communications between the appraiser and the registrant, licensee, and lender;

(ix) underwriter denials;

(x) notices of adverse action;

(xi) loan approval;

(xii) name and contact information for the borrower in the transaction;

(xiii) pre-qualification and pre-approval letters; [and]

(xiv) [all] other records required by underwriters involved with the transaction or provided to a lender; and

(xv) customer information acquired in the application or lending process.

(b) Records may be maintained electronically if the storage system complies with Title 46 Chapter 04, Utah Uniform Electronic Transactions Act.

(c) A licensed entity shall make each record [all records] available to the division pursuant to Subsection 61-2c-302(3).

(d) An individual who terminates sponsorship with an entity shall turn over to the entity any records and customer information in the individual's possession when the sponsorship is terminated [at the time of termination].

(2) [Record Disposal.] A person who disposes of records and customer information at the end of the retention period shall destroy the records and customer information, including any personal

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information by shredding, erasing, or otherwise making the information indecipherable.

(3) ~~Responsible Party.~~

(a) If a licensed entity is actively engaged in the business of residential mortgage loans, the PLM is responsible for proper retention, maintenance, safeguarding, and disposal of records and customer information.

(b) If a licensed entity stops ~~ceases~~ doing business in Utah, the control persons ~~person(s)~~ as of its last day of operation are responsible for proper retention, maintenance, safeguarding, and disposal of records and customer information.

**KEY: residential mortgage, loan origination, licensing, enforcement**

**Date of Last Change: 2023** ~~October 26, 2021~~

**Notice of Continuation: January 15, 2020**

**Authorizing, and Implemented or Interpreted Law: 61-2c-103(3); 61-2c-402(4)(a)**

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R162-2e	Filing ID: 55456

**Agency Information**

<b>1. Department:</b>	Commerce	
<b>Agency:</b>	Real Estate	
<b>Room number:</b>	2nd Floor	
<b>Building:</b>	Heber M Wells	
<b>Street address:</b>	160 E 300 S	
<b>City, state and zip:</b>	Salt Lake City, UT 84101	
<b>Mailing address:</b>	PO Box 146711	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6711	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Justin Barney	801-530-6603	justinbarney@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R162-2e. Appraisal Management Company Administrative Rules
<b>3. Reason for this change:</b>
The reason for the proposed rule amendment is to clarify the communication required of an Appraisal Management Company (AMC) to an appraiser when the AMC chooses to use a bifurcated appraisal assignment and to reduce the

amount of USPAP instruction required for AMC personnel under certain circumstances.

**4. Summary of this change:**

The proposed rule would: 1) add definitions for appraisal review, bifurcated assignment, and third-party property data collection; 2) for a bifurcated appraisal assignment, require that the AMC disclose to the appraiser: a) the date data was collected; b) the identity or the collector; and c) other relevant information; 3) incorporate USPAP into rule by reference; and 4) reduce the amount of required USPAP instruction for AMC personnel who do not appraise property but who select an appraiser for an assignment or who complete the review of an appraisal.

**Fiscal Information**

**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

**A) State budget:**

There is no anticipated cost or savings to the state budget as the Division of Real Estate (Division) has the staff and budget in place to administer the proposed rule amendment. None of the proposed changes is expected to impact the state's budget by either increasing costs or generating savings.

**B) Local government:**

Local governments are not required to comply with or enforce the Appraisal Management Company Administrative Rules. After conducting a thorough analysis, it was determined that the proposed rule amendment will not result in a fiscal impact to local governments.

**C) Small businesses ("small business" means a business employing 1-49 persons):**

The Division finds that adoption of the proposed rule amendments will not result in a fiscal impact for small businesses. Since the practices of most small businesses doing appraisals are already conducting the process, the proposed amendments will only affect businesses positively that choose to implement the bifurcation process.

Further, the Division does not foresee any negative impact on small businesses from the grammar since the new rule was drafted to comport to the Utah Rulewriting Manual.

**D) Non-small businesses ("non-small business" means a business employing 50 or more persons):**

The proposed amendment does not create new obligations for non-small businesses nor does it increase the cost associated with any existing obligation. After conducting a thorough analysis, it was determined that the proposed rule amendment will not result in a fiscal impact to non-small businesses.