

Utah Division of Real Estate (UT-DRE) Continuing Education (CE) Notice for 2022

Purpose

The purpose of this notice is to inform NMLS approved course providers of the required topics to be covered in the 2- hour state specific Continuing Education (CE) requirement which must be met as a condition for maintaining a mortgage loan originator (MLO) license with the Utah Division of Real Estate.

This course should be completed by licensees in 2022 and CE credits given for the 2022 renewal period. The course will be expired on February 28th, 2023 or the course's renewal period, whichever comes first.

CE requirements are as follows:

- 3 hours of Federal law;
- 2 hours of Ethics;
- 2 hours of non-traditional mortgage lending;
- 1 hour of general electives;
- 2 hours of Utah state-specific defined electives

Total CE: 10 Hours

UT-DRE has established the following required topics list for the 2 hours of state-specific CE:

Mortgage Administrative Rule changes that went into effect in 2021 – 5 Minutes

- **Section R162-2c-201** – replace the requirement that an applicant evidence "good moral character" with statutory requirements of honesty, integrity, and truthfulness;
- **Section R162-2c-202** – eliminate references to "moral turpitude and moral character;" and eliminate references to unnecessary and now irrelevant dates;
- **Section R162-2c-203** - eliminate references to "moral character," clarify the available formats for Utah-specific education instruction, including traditional classroom, virtual-live, distance education, and other formats, and also clarify that the 20 hours of instruction required to renew an instructor certification is not limited to classroom instruction;

- **Section R162-2c-204** - eliminate references to "moral character," and coordinate the timing for state required fingerprinting for a criminal background check and submission of a credit report with national requirements, thus eliminating the expense to licensees for unnecessary and mostly redundant criminal background checks and credit reports; and
- **Section R162-2c-301b** – delete this outdated section on employee incentive programs.

Mortgage Commission Suggested Topics – 35 Minutes

Please cover at least three topics (10 min. per topic)

1. Deceptive Advertising and Targeted Solicitation Law
 - a. Division of Real Estate
 - i. Utah Code [61-2c-301\(l\)](#)
 - ii. Division newsletter
 - b. Utah Division of Consumer Protection
 - i. Utah Code Utah Code Ann. §13-11
https://le.utah.gov/xcode/Title13/Chapter11/13-11-S4.html?v=C13-11-S4_2021050520210505
 - ii. File a complaint <https://dcp.utah.gov/complaints.html>
2. Post Dating Documents
 - a. [§61-2c-301\(1\)\(d\), \(j\)](#)
3. Lending Manager
 - a. Licensing requirements
 - i. [§61-2c-206](#)
 - b. Responsibilities
 - c. Supervisor Duties
 - i. [§61-2c-301\(3\)](#)
4. Occupancy Types and Requirements
 - a. Conventional Loans
 - i. <https://selling-guide.fanniemae.com/Selling-Guide/Origination-thru-Closing/Subpart-B2-Eligibility/Chapter-B2-1-Mortgage-Eligibility/Section-B2-1-1-Occupancy-Types/1032995641/B2-1-1-01-Occupancy-Types-04-07-2021.htm>
 - b. FHA
 - i. https://www.hud.gov/sites/documents/4155-1_4_SECB.PDF
 - c. VA
 - i. <https://www.benefits.va.gov/WARMS/docs/admin26/handbook/ChapterLendersHanbookChapter3.pdf>
5. Hard/Private Money Lending
 - a. [Licensing Requirements](#)

- b. [Definitions](#)
 - c. Past Disciplinary Actions
 - i. Case number MG-17-94-129, MG-18-105708, and MG-20-118115
- 6. Utah Licensing Roles
 - a. Principle Lending Manager vs Branch Lending Manager
 - b. MLO vs Loan Processor
- 7. Gifts
 - a. Referral Fees – [Utah Law \(61-2c-301\(1\)\(a\)\)](#) Prohibited conduct -- Violations of the chapter) & ([RESPA Section 8\) 1024.14](#) prohibition against kickbacks and unearned fees.
- 8. Maintain and Safeguard Records [62-2C-302\(1\) & \(2\)](#) & R162-2c-301(1)(a) R162-2c-302
 - a. Requirements for all licenses whether working from home or at a licensed location to safeguard records containing sensitive information. (Be careful: lock drawers, lock computer, utilize shredder, etc.)

Mortgage Licensing and Disciplinary Actions taken in 2021 – 60 min.

Multiple licensee applications for initial license or license renewal were either denied or placed on probation for the initial licensing period due to their criminal histories. The licensing sanctions varied based on whether the criminal conduct was either reported by the licensee, or determined by the criminal background check; the recency of the offense; and the severity and number of criminal convictions. Full disciplinary actions can be found [here](#).

4Q – 2020

HANCOCK, LANCE LOUIS, mortgage loan originator, Eagle Mountain, Utah. In a stipulated order dated December 29, 2020, Mr. Hancock admitted that he had altered several details of a hazard insurance quote and submitted the falsified quote to the title company on behalf of his client. The client was not aware of Mr. Hancock's actions in this matter. The title company closed the loan and the client was without hazard insurance for two days. The mortgage lender had relied on a policy having been issued prior to closing. Mr. Hancock admits that his actions violated Utah law in that he made a false statement and caused a false document to be generated to induce a lender to extend credit in a residential mortgage loan transaction and that he had engaged in an act in transacting the business of residential mortgage loans that constitutes dishonesty, fraud, or misrepresentation. Mr. Hancock agreed that his mortgage loan originator license be immediately revoked, that he be banned for life from applying for a mortgage loan originator license in the State of Utah, and that he would update his answers in the NMLS to reflect this regulatory action. Case number MG-17-94151

SWINDER, JIMMY, unlicensed, Reseda, California. In a stipulated order dated November 4, 2020, Mr. Swinder admitted that although he was admitted to the California State Bar he has never been a member of the Utah State Bar nor has he ever been licensed in Utah to engage in

the business of residential mortgage loans. Mr. Swinder admitted that he entered into an agreement with a Utah resident to pursue a home loan modification and charged the borrower a fee before obtaining the modification in violation of Utah law. Mr. Swinder never did obtain a loan modification for the borrower. Mr. Swinder agreed to pay a civil penalty of \$10,000. The civil penalty may be reduced to \$3,400 if Mr. Swinder pays the borrower restitution in the amount of \$3,600 within 90 days of the order. Case number MG-17-88594

WILSON, CHRISTOPHER HAROLD, mortgage loan originator, Fairfax, Virginia. In the Third Quarter Newsletter, it was announced that Mr. Wilson's application for temporary authority to originate loans in Utah was denied. It has since been determined that Mr. Wilson had indeed qualified for licensure. In a corrected order dated October 21, 2020, the order denying Mr. Wilson's temporary authority to originate loans was vacated and Mr. Wilson was granted a mortgage loan originator license. Case number MG-20-120976

1Q – 2021

MORTGAGE

CABRERA, MIGUEL ANTONIO, mortgage loan originator, West Jordan, Utah. In an order dated December 11, 2020, Mr. Cabrera's license was renewed and placed on probation for the renewal period due to a plea in abeyance in a criminal matter. Case number MG-20-123418

CHESNEY, MCKENZIE SUE, mortgage loan originator, Salt Lake City, Utah. In an order dated February 5, 2021, Ms. Chesney's license was renewed and placed on probation for the renewal period due to a plea in abeyance in a criminal matter. Case number MG-21-124804

CUMMINGS, NATHAN, mortgage loan originator, Pleasant Grove, Utah. In an order dated December 11, 2020, Mr. Cummings's application for licensure as a mortgage loan originator was denied due to criminal history. Case number MG-20-123425

JOHNSON, KIRK ALAN, lending manager, Ogden, Utah. In an order dated December 4, 2020, Mr. Johnson's application for licensure as a lending manager was granted and placed on probation for the renewal period due to criminal history. Case number MG-20-123272

KEY, MARTIN NICHOLAS, mortgage loan originator, Midvale, Utah. In an order dated December 22, 2020, Mr. Key's license was renewed and placed on probation due to a pending criminal matter. Case number MG-20-123649

MCHATTON, JEFFREY, lending manager, Chandler, Arizona. In an order dated January 14, 2021, Mr. McHatton's application for the renewal of his license was denied due to a finding by the Arizona Corporation Commission that Mr. McHatton committed fraud in the offer and sale of securities, in violation of Arizona law. Case number MG-20-123619

PEART, CODY JAY, mortgage loan originator, Heber, Utah. In an order dated December 17, 2020, Mr. Peart's license was renewed and placed on probation for the renewal period due to an unpaid civil judgment and criminal history. Case number MG-20-123585

PENA, DANIEL, mortgage loan originator, Pleasant Grove, Utah. In an order dated January 22, 2021, Mr. Pena's license was reinstated and placed on probation due to a pending criminal matter. Case number MG-21-124470

VARGAS, OSCAR S., mortgage loan originator, Salt Lake City, Utah. Pursuant to a stipulated order dated January 6, 2021, Mr. Vargas's license was renewed and placed on probation due to a pending criminal matter. In the stipulation, he agreed that another person would be present at all times when he is meeting with a client, mortgage applicant, or borrower while his license is on probation. Case number RE-20-123405

WHITAKER, WILLIAM S., mortgage loan originator, Spanish Fork, Utah. In an order dated February 5, 2021, Mr. Whitaker's license was renewed and placed on probation for the renewal period. Case number MG-20-123428

WHITE, MARK HARRIS, mortgage loan originator, Austin, Texas. In an order dated January 6, 2021, Mr. White's license was renewed and placed on probation for the renewal period due to a pending criminal matter. Case number MG-20-124003

2Q -2021

CUMMINGS, NATHAN, mortgage loan originator, Pleasant Grove, Utah. In an order dated April 8, 2021, the Utah Residential Mortgage Regulatory Commission granted Mr. Cummings a license to practice as a mortgage loan originator. The license was placed on probation for the initial licensing period due to criminal history. Case number MG-2021-002

POSTAK, DANIEL JAY, mortgage loan originator, Phoenix, Arizona. In an order dated May 21, 2021, Mr. Postak's application for licensure was denied due to findings entered by the Nebraska Department of Banking and Finance that in his application for licensure in Nebraska he had made misrepresentations which reflected negatively on his good moral character, integrity, and competence. Case number MG-21-127199

3Q – 2021

AMERICAN FINANCIAL NETWORK, INC. (“AFN”) and John Sherman, Broker and Owner, Brea California. In a stipulated order dated June 2, 2021, AFN admitted that it allowed persons affiliated with AFN, including a licensed mortgage loan originator and an unlicensed individual, to solicit mortgage services, that the actions of these individuals included engaging in false or misleading advertising, and that AFN failed to exercise reasonable supervision over the mortgage loan originator and unlicensed staff member. The misleading advertisements created an undue sense of urgency and one mailer suggested that it had been sent by the Veteran’s Administration rather than by AFN. These actions are in violation of Utah law. AFN agreed to pay a civil penalty of \$6,000 and to update its MU-1 form in the NMLS. Case number MG-17-94-129, MG-18-105708, and MG-20-118115

NMLS Approving Authority

In accordance with the SAFE Act, NMLS is the approval authority for courses that are intended to satisfy the PE & CE requirement for an MLO to be licensed by a state-agency. Courses intending to satisfy these requirements must also meet NMLS course approval standards as detailed in the *Functional Specification for All NMLS Approved Courses*.

Legislative Updates

Course providers are responsible for keeping abreast of changes made to the applicable statutes, regulations and rules.