

R162. Commerce, Real Estate.

R162-202. Initial Application.

R162-202-5. Determining Fitness for Licensure.

202.5.1 Qualifications of Applicants. All mortgage officer and principal lending manager applicants, and all directors, executive officers, and managing partners of any entity applicant, and anyone who occupies a position or performs functions similar to a director, executive officer, manager or managing partner of an entity applicant, shall meet the following qualifications. None of these persons may have:

(a) been convicted of, entered a plea in abeyance to, or completed any sentence of confinement on account of, any felony within five years preceding the application; or

(b) been convicted of, entered a plea in abeyance to, or completed any sentence of confinement on account of, any misdemeanor involving fraud, misrepresentation, theft, or dishonesty within three years preceding the application.

202.5.2 [Good Moral Character.] In determining whether an individual who has not been disqualified by Subsection 202.5.1 [The Commission and the Division will consider information necessary to determine whether an applicant for a license or a director, executive officer, manager, or a managing partner of an entity that has applied for a license, or anyone who occupies a position or performs functions similar to a director, executive officer, manager or managing partner of an entity that has applied for a license,] meets the requirements of good moral character, honesty, integrity, and truthfulness, the Commission and the Division will consider information which may include the following in addition to whether the individual has been convicted of a felony or misdemeanor involving moral turpitude in the ten years preceding the application:

(a) The circumstances that led to any criminal convictions considered by the Commission and the Division;

(b) The amount of time that has passed since the individual's last criminal conviction;

(c) Any character testimony presented at the hearing and any character references submitted by the individual;

(d) Past acts related to honesty or moral character involving the business of residential mortgage loans;

(e) Whether the individual has been guilty of dishonest conduct in the five years preceding the application that would have been grounds under Utah law for revocation or suspension of a registration or license had the individual then been registered or licensed;

(f) Whether a civil judgment based on fraud, misrepresentation, or deceit has been entered against the individual, or whether a finding of fraud, misrepresentation or deceit by the individual has been made in a civil suit, regardless of whether related to the residential mortgage loan business, and whether any money judgment has been fully satisfied;

(g) Whether fines and restitution ordered by a court in a criminal proceeding have been fully satisfied, and whether the individual has complied with court orders in the criminal proceeding;

(h) Whether a probation agreement, plea in abeyance, or diversion agreement entered into in a criminal proceeding in the ten years preceding the application has been successfully completed;

(i) Whether any tax and child support arrearages have been paid; and

(j) Whether there has been good conduct on the part of the individual subsequent to the individual's offenses.

202.5.[2]3 Competency to Transact the Business of Residential Mortgage Loans. The Commission and the Division will consider information necessary to determine whether an applicant for a license or director, executive officer, manager, or a managing partner of an entity that has applied for a license, or anyone who occupies a position or performs functions similar to a director, executive officer, manager or managing partner of an entity that has applied for a license, meets the requirement of competency to transact the business of residential mortgage loans, which shall include the following:

(a) Past acts related to competency to transact the business of residential mortgage loans;

(b) Whether a civil judgment involving the business of mortgage loans has been entered against the individual, and whether the judgment has been fully satisfied, unless the judgment has been discharged in bankruptcy;

(c) The failure of any previous mortgage loan business in which the individual engaged, and the reasons for any failure;

(d) The individual's management and employment practices in any previous mortgage loan business, including whether or not employees were paid the amounts owed to them;

(e) The individual's training and education in mortgage lending, if any was available to the applicant;

(f) The individual's training, education, and experience in the mortgage loan business or in management of a mortgage loan business, if any was available to the individual;

(g) A lack of knowledge of the Utah Residential Mortgage Practices Act on the part of the individual;

(h) A history of disregard for licensing laws;

(i) A prior history of drug or alcohol dependency within the last five years, and any subsequent period of sobriety; and

(j) Whether the individual has demonstrated competency in business subsequent to any past incompetence by the individual in the mortgage loan business.

202.5.[3]4 Age. All mortgage officer and principal lending manager applicants shall be at least 18 years old.

KEY: residential mortgage loan origination

Date of Enactment or Last Substantive Amendment: 2007