

Residential Mortgage Loan Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gay Lynn Bennion

LONG TITLE**General Description:**

This bill modifies the Utah Residential Mortgage Practices and Licensing Act.

Highlighted Provisions:

This bill:

- defines terms;
- provides conditions where the use of information derived from a consumer report to solicit a consumer is prohibited; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

61-2-203, as last amended by Laws of Utah 2023, Chapter 401

61-2c-301, as last amended by Laws of Utah 2024, Chapter 218

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **61-2-203** is amended to read:

61-2-203 . Adjudicative proceedings -- Citation authority.

- (1) The division shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in an adjudicative proceeding under a chapter the division administers.
- (2) The division may initiate an adjudicative proceeding through:
 - (a) a notice of agency action; or
 - (b) a notice of formal or informal proceeding.
- (3) The provisions of Title 63G, Chapter 4, Administrative Procedures Act, do not apply to the issuance of a citation under Subsection (4), unless a licensee or another person authorized by law to contest the validity or correctness of a citation commences an

- 32 adjudicative proceeding contesting the citation.
- 33 (4) In addition to any other statutory penalty for a violation related to an occupation or
34 profession regulated under this title, the division may issue a citation to a person who,
35 upon inspection or investigation, the division concludes to have violated:
- 36 (a) Subsection 61-2c-201(1)[, which requires licensure];
- 37 (b) Subsection 61-2c-201(4)[, which requires licensure];
- 38 (c) Subsection 61-2c-205(3)[, which requires notification of a change in specified
39 information regarding a licensee];
- 40 (d) Subsection 61-2c-205(4)[, which requires notification of a specified legal action];
- 41 (e) Subsection [61-2c-301(1)(g), which prohibits failing to respond to the division within
42 the required time period] 61-2c-301(2)(g);
- 43 (f) Subsection [61-2c-301(1)(h), which prohibits making a false representation to the
44 division] 61-2c-301(2)(h);
- 45 (g) Subsection [61-2c-301(1)(i), which prohibits taking a dual role in a transaction]
46 61-2c-301(2)(i);
- 47 (h) Subsection [61-2c-301(1)(l), which prohibits engaging in false or misleading
48 advertising] 61-2c-301(2)(l);
- 49 (i) Subsection [61-2c-301(1)(t), which prohibits advertising the ability to do licensed
50 work if unlicensed] 61-2c-301(2)(t);
- 51 (j) Subsection 61-2c-302(5)[, which requires a mortgage entity to create and file a
52 quarterly report of condition];
- 53 (k) Subsection 61-2e-201(1)[, which requires registration];
- 54 (l) Subsection 61-2e-203(4)[, which requires a notification of a change in ownership];
- 55 (m) Subsection 61-2e-307(1)(c)[, which prohibits use of an unregistered fictitious name];
- 56 (n) Subsection 61-2e-401(1)(c)[, which prohibits failure to respond to a division request];
- 57 (o) Subsection 61-2f-201(1)[, which requires licensure];
- 58 (p) Subsection 61-2f-206(1)[, which requires registration];
- 59 (q) Subsection 61-2f-301(1)[, which requires notification of a specified legal action];
- 60 (r) Subsection 61-2f-401(1)(a)[, which prohibits making a substantial misrepresentation];
- 61 (s) Subsection 61-2f-401(3)[, which prohibits undertaking real estate while not affiliated
62 with a principal broker];
- 63 (t) Subsection 61-2f-401(9)[, which prohibits failing to keep specified records and
64 prohibits failing to make the specified records available for division inspection];
- 65 (u) Subsection 61-2f-401(12)[, which prohibits false, misleading, or deceptive

- 66 advertising];
- 67 (v) Subsection 61-2f-401(18)[, which prohibits failing to respond to a division request];
- 68 (w) Subsection 61-2g-301(1)[, which requires licensure];
- 69 (x) Subsection 61-2g-405(3)[, which requires making records required to be maintained
- 70 available to the division];
- 71 (y) Subsection 61-2g-501(2)(c)[, which requires a person to respond to a division
- 72 request in an investigation within 10 days after the day on which the request is served];
- 73 (z) Subsection 61-2g-502(2)(f)[, which prohibits using a nonregistered fictitious name];
- 74 (aa) a rule made [~~pursuant to any Subsection~~] in accordance with any subsection listed in
- 75 this Subsection (4);
- 76 (bb) an order of the division; or
- 77 (cc) an order of the commission or board that oversees the person's profession.
- 78 (5)(a) In accordance with Subsection (10), the division may assess a fine against a
- 79 person for a violation of a provision listed in Subsection (4), as evidenced by:
- 80 (i) an uncontested citation;
- 81 (ii) a stipulated settlement; or
- 82 (iii) a finding of a violation in an adjudicative proceeding.
- 83 (b) The division may, in addition to or in lieu of a fine under Subsection (5)(a), order the
- 84 person to cease and desist from an activity that violates a provision listed in
- 85 Subsection (4).
- 86 (6) Except as provided in Subsection (8)(d), the division may not use a citation to effect a
- 87 license:
- 88 (a) denial;
- 89 (b) probation;
- 90 (c) suspension; or
- 91 (d) revocation.
- 92 (7)(a) A citation issued by the division shall:
- 93 (i) be in writing;
- 94 (ii) describe with particularity the nature of the violation, including a reference to the
- 95 provision of the statute, rule, or order alleged to have been violated;
- 96 (iii) clearly state that the recipient must notify the division in writing within 20
- 97 calendar days after the day on which the citation is served if the recipient wishes
- 98 to contest the citation at a hearing conducted under Title 63G, Chapter 4,
- 99 Administrative Procedures Act; and

- 100 (iv) clearly explain the consequences of failure to timely contest the citation or to
101 make payment of a fine assessed by the citation within the time period specified in
102 the citation.
- 103 (b) The division may issue a notice in lieu of a citation.
- 104 (8)(a) A citation becomes final:
- 105 (i) if within 20 calendar days after the day on which the citation is served, the person
106 to whom the citation was issued fails to request a hearing to contest the citation; or
107 (ii) if the director or the director's designee conducts a hearing pursuant to a timely
108 request for a hearing and issues an order finding that a violation has occurred.
- 109 (b) The division may extend, for cause, the 20-day period to contest a citation.
- 110 (c) A citation that becomes the final order of the division due to a person's failure to
111 timely request a hearing is not subject to further agency review.
- 112 (d)(i) The division may refuse to issue, refuse to renew, suspend, revoke, or place on
113 probation the license of a licensee who fails to comply with a citation after the
114 citation becomes final.
- 115 (ii) The failure of a license applicant to comply with a citation after the citation
116 becomes final is a ground for denial of the license application.
- 117 (9)(a) The division may not issue a citation under this section after the expiration of one
118 year after the day on which the violation occurs.
- 119 (b) The division may issue a notice to address a violation that is outside of the one-year
120 citation period.
- 121 (10) The director or the director's designee shall assess a fine with a citation in an amount
122 that is no more than:
- 123 (a) for a first offense, \$1,000;
124 (b) for a second offense, \$2,000; and
125 (c) for each offense subsequent to a second offense, \$2,000 for each day of continued
126 offense.
- 127 (11)(a) An action for a first or second offense for which the division has not issued a
128 final order does not preclude the division from initiating a subsequent action for a
129 second or subsequent offense while the preceding action is pending.
- 130 (b) The final order on a subsequent action is considered a second or subsequent offense,
131 respectively, provided the preceding action resulted in a first or second offense,
132 respectively.
- 133 (12)(a) If a person does not pay a penalty, the director may collect the unpaid penalty

134 by:

- 135 (i) referring the matter to a collection agency; or
 136 (ii) bringing an action in a court with jurisdiction under Title 78A, Judiciary and
 137 Judicial Administration.
 138 (b) A county attorney or the attorney general of the state shall provide legal services to
 139 the director in an action to collect the penalty.
 140 (c) A court may award reasonable attorney fees and costs to the division in an action the
 141 division brings to enforce the provisions of this section.

142 Section 2. Section **61-2c-301** is amended to read:

143 **61-2c-301 . Prohibited conduct -- Violations of the chapter.**

144 (1) As used in this section:

145 (a) "Prescreened trigger lead information" means information derived from a consumer
 146 report that is given to a third party that is not affiliated with the consumer.

147 (b)(i) "Solicitation" means contacting a consumer to market mortgage loan services.

148 (ii) "Solicitation" includes:

149 (A) accepting or offering to accept a mortgage loan application;

150 (B) helping or offering to help process a mortgage loan application;

151 (C) soliciting or offering to solicit a mortgage loan for a third party; or

152 (D) negotiating or offering to negotiate the terms of a mortgage loan with a lender
 153 for a third party.

154 (2) A person, when transacting the business of residential mortgage loans in this state, may
 155 not:

156 (a) violate Section 8 of RESPA;

157 (b) charge a fee in connection with a residential mortgage loan transaction:

158 (i) that is excessive; or

159 (ii) without providing to the loan applicant a written statement signed by the loan
 160 applicant:

161 (A) stating whether [~~or not~~]the fee or deposit is refundable; and

162 (B) describing the conditions, if any, under which all or a portion of the fee or
 163 deposit will be refunded to the loan applicant;

164 (c) act incompetently in the transaction of the business of residential mortgage loans [
 165 ~~such that the person fails~~] resulting in the person failing to:

166 (i) safeguard the interests of the public; or

167 (ii) conform to acceptable standards of the residential mortgage loan industry;

- 168 (d) do any of the following as part of a residential mortgage loan transaction, regardless
169 of whether the residential mortgage loan closes:
- 170 (i) make a false statement or representation;
 - 171 (ii) cause false documents to be generated; or
 - 172 (iii) knowingly permit false information to be submitted by any party;
- 173 (e) give or receive compensation or anything of value, or withhold or threaten to
174 withhold payment of an appraiser fee, to influence the independent judgment of an
175 appraiser in reaching a value conclusion in a residential mortgage loan transaction,
176 except that it is not a violation of this section for a licensee to withhold payment
177 because of a bona fide dispute regarding a failure of the appraiser to comply with the
178 licensing law or the Uniform Standards of Professional Appraisal Practice;
- 179 (f) violate or not comply with:
- 180 (i) this chapter;
 - 181 (ii) an order of the commission or division; or
 - 182 (iii) a rule made by the division;
- 183 (g) fail to respond within the required time period to:
- 184 (i) a notice or complaint of the division; or
 - 185 (ii) a request for information from the division;
- 186 (h) make false representations to the division, including in a licensure statement;
- 187 (i) engage in the business of residential mortgage loans with respect to the transaction if
188 the person also acts in any of the following capacities with respect to the same
189 residential mortgage loan transaction:
- 190 (i) appraiser;
 - 191 (ii) escrow agent;
 - 192 (iii) real estate agent;
 - 193 (iv) general contractor; or
 - 194 (v) title insurance producer;
- 195 (j) engage in unprofessional conduct as defined by rule;
- 196 (k) engage in an act or omission in transacting the business of residential mortgage loans
197 that constitutes dishonesty, fraud, or misrepresentation;
- 198 (l) engage in false or misleading advertising;
- 199 (m)(i) fail to account for money received in connection with a residential mortgage
200 loan;
- 201 (ii) use money for a different purpose from the purpose for which the money is

- 202 received; or
- 203 (iii) except as provided in Subsection [~~(4)~~,] (5), retain money paid for services if the
204 services are not performed;
- 205 (n) fail to provide a prospective borrower a copy of each appraisal and any other written
206 valuation developed in connection with an application for credit that is to be secured
207 by a first lien on a dwelling in accordance with Subsection [~~(5)~~;] (6);
- 208 (o) engage in an act that is performed to:
- 209 (i) evade this chapter; or
- 210 (ii) assist another person to evade this chapter;
- 211 (p) recommend or encourage default, delinquency, or continuation of an existing default
212 or delinquency, by a mortgage applicant on an existing indebtedness before the
213 closing of a residential mortgage loan that will refinance all or part of the
214 indebtedness;
- 215 (q) in the case of the lending manager of an entity or a branch office of an entity, fail to
216 exercise reasonable supervision over the activities of:
- 217 (i) unlicensed staff; or
- 218 (ii) a mortgage loan originator who is affiliated with the lending manager;
- 219 (r) pay or offer to pay an individual who does not hold a license under this chapter for
220 work that requires the individual to hold a license under this chapter;
- 221 (s) in the case of a dual licensed title licensee as defined in Section 31A-2-402:
- 222 (i) provide a title insurance product or service without the approval required by
223 Section 31A-2-405; or
- 224 (ii) knowingly provide false or misleading information in the statement required by
225 Subsection 31A-2-405(2);
- 226 (t) represent to the public that the person can or will perform any act of a mortgage loan
227 originator if that person is not licensed under this chapter because the person is
228 exempt under Subsection 61-2c-105(4), including through:
- 229 (i) advertising;
- 230 (ii) a business card;
- 231 (iii) stationery;
- 232 (iv) a brochure;
- 233 (v) a sign;
- 234 (vi) a rate list; or
- 235 (vii) other promotional item;

- 236 (u)(i) engage in an act of loan modification assistance without being licensed under
237 this chapter;
- 238 (ii) engage in an act of foreclosure rescue that requires licensure as a real estate agent
239 or real estate broker under Chapter 2, Division of Real Estate, without being
240 licensed under that chapter;
- 241 (iii) engage in an act of loan modification assistance without entering into a written
242 agreement specifying which one or more acts of loan modification assistance will
243 be completed;
- 244 (iv) request or require a person to pay a fee before obtaining:
- 245 (A) a written offer for a loan modification from the person's lender or servicer; and
246 (B) the person's written acceptance of the offer from the lender or servicer;
- 247 (v) induce a person seeking a loan modification to hire the licensee to engage in an
248 act of loan modification assistance by:
- 249 (A) suggesting to the person that the licensee has a special relationship with the
250 person's lender or loan servicer; or
- 251 (B) falsely representing or advertising that the licensee is acting on behalf of:
- 252 (I) a government agency;
253 (II) the person's lender or loan servicer; or
254 (III) a nonprofit or charitable institution;
- 255 (vi) recommend or participate in a loan modification that requires a person to:
- 256 (A) transfer title to real property to the licensee or to a third-party with whom the
257 licensee has a business relationship or financial interest;
- 258 (B) make a mortgage payment to a person other than the person's loan servicer; or
259 (C) refrain from contacting the person's:
- 260 (I) lender;
261 (II) loan servicer;
262 (III) attorney;
263 (IV) credit counselor; or
264 (V) housing counselor; or
- 265 (vii) for an agreement for loan modification assistance entered into on or after May
266 11, 2010, engage in an act of loan modification assistance without offering in
267 writing to the person entering into the agreement for loan modification assistance
268 a right to cancel the agreement within three business days after the day on which
269 the person enters the agreement;

- 270 (v) sign or initial a document on behalf of another person, except for in a circumstance
 271 allowed by the division by rule, with the concurrence of the commission, made in
 272 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 273 (w) violate or fail to comply with a provision of Title 57, Chapter 28, Utah Reverse
 274 Mortgage Act;[-ør]
- 275 (x) engage in any act or practice that violates appraisal independence as defined in 15
 276 U.S.C. Sec. 1639e or in the policies and procedures of:
- 277 (i) the Federal Home Loan Mortgage Corporation; or
 278 (ii) the Federal National Mortgage Association[-] ; or
- 279 (y) use prescreened trigger lead information to solicit a consumer who has applied for a
 280 mortgage loan with another financial institution, if the person:
- 281 (i) fails to state in the initial solicitation that the person is not affiliated with the
 282 mortgage loan company or mortgage loan broker with which the consumer
 283 initially applied;
- 284 (ii) fails in the initial solicitation to conform to state and federal law relating to
 285 solicitations using consumer reports, including the requirement to make a firm
 286 offer of credit to the consumer; or
- 287 (iii) solicits a consumer with an offer of certain rates, terms, and costs with the
 288 knowledge that the person will subsequently change the rates, terms, or costs to
 289 the detriment of the consumer.
- 290 [(2)] (3) Regardless of whether the crime is related to the business of residential mortgage
 291 loans, it is a violation of this chapter for a licensee or a person who is a certified
 292 education provider to:
- 293 (a) be convicted of:
- 294 (i) a felony; or
 295 (ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:
- 296 (A) a class A misdemeanor;
 297 (B) a class B misdemeanor; or
 298 (C) a criminal offense comparable to a class A or class B misdemeanor;
- 299 (b) plead guilty or nolo contendere to:
- 300 (i) a felony; or
 301 (ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:
- 302 (A) a class A misdemeanor;
 303 (B) a class B misdemeanor; or

- 304 (C) a criminal offense comparable to a class A or class B misdemeanor; or
 305 (c) enter into a plea in abeyance agreement in relation to:
 306 (i) a felony; or
 307 (ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:
 308 (A) a class A misdemeanor;
 309 (B) a class B misdemeanor; or
 310 (C) a criminal offense comparable to a class A or class B misdemeanor.
- 311 ~~[(3)]~~ (4) A lending manager does not violate Subsection ~~[(1)(q)]~~ (2)(q) if:
 312 (a) in contravention of the lending manager's written policies and instructions, an
 313 affiliated licensee of the lending manager violates:
 314 (i) this chapter; or
 315 (ii) rules made by the division under this chapter;
 316 (b) the lending manager established and followed reasonable procedures to ensure that
 317 affiliated licensees receive adequate supervision;
 318 (c) upon learning of a violation by an affiliated licensee, the lending manager attempted
 319 to prevent or mitigate the damage;
 320 (d) the lending manager did not participate in or ratify the violation by an affiliated
 321 licensee; and
 322 (e) the lending manager did not attempt to avoid learning of the violation.
- 323 ~~[(4)]~~ (5) Notwithstanding Subsection ~~[(1)(m)(iii)]~~ (2)(m)(iii), a licensee may, upon
 324 compliance with Section 70D-2-305, charge a reasonable cancellation fee for work done
 325 originating a mortgage if the mortgage is not closed.
- 326 ~~[(5)]~~ (6)(a) Except as provided in Subsection ~~[(5)(b)]~~ (6)(b), a person transacting the
 327 business of residential mortgage loans in this state shall provide a prospective
 328 borrower a copy of each appraisal and any other written valuation developed in
 329 connection with an application for credit that is to be secured by a first lien on a
 330 dwelling on or before the earlier of:
 331 (i) as soon as reasonably possible after the appraisal or other valuation is complete; or
 332 (ii) three business days before the day of the settlement.
- 333 (b) Subject to Subsection ~~[(5)(e)]~~ (6)(c), unless otherwise prohibited by law, a
 334 prospective borrower may waive the timing requirement described in Subsection [
 335 ~~(5)(a)]~~ (6)(a) and agree to receive each appraisal and any other written valuation:
 336 (i) less than three business days before the day of the settlement; or
 337 (ii) at the settlement.

338 (c)(i) Except as provided in Subsection [~~(5)(e)(ii)~~] (6)(c)(ii), a prospective borrower
339 shall submit a waiver described in Subsection [~~(5)(b)~~] (6)(b) at least three business
340 days before the day of the settlement.

341 (ii) Subsection [~~(5)(b)~~] (6)(b) does not apply if the waiver only pertains to a copy of
342 an appraisal or other written valuation that contains only clerical changes from a
343 previous version of the appraisal or other written valuation and the prospective
344 borrower received a copy of the original appraisal or other written valuation at
345 least three business days before the day of the settlement.

346 (d) If a prospective borrower submits a waiver described in Subsection [~~(5)(b)~~] (6)(b) and
347 the transaction never completes, the person transacting the business of residential
348 mortgage loans shall provide a copy of each appraisal or any other written valuation
349 to the applicant no later than 30 days after the day on which the person knows the
350 transaction will not complete.

351 Section 3. **Effective Date.**

352 This bill takes effect on May 7, 2025.