

**MORTGAGE LENDING AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jon E. Stanard**

Senate Sponsor: Alvin B. Jackson

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**LONG TITLE**

**General Description:**

This bill modifies provisions that address mortgage lending.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ addresses the application of the Mortgage Lending and Servicing Act to mortgage lenders; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**70D-2-102**, as last amended by Laws of Utah 2015, Chapter 284

**70D-2-201**, as last amended by Laws of Utah 2015, Chapter 284

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

Section 1. Section **70D-2-102** is amended to read:

**70D-2-102. Definitions.**

As used in this chapter:

(1) (a) Except as provided in Subsection (1)(b), "broker" means a person who in the

30 regular course of business assists a person in obtaining a mortgage loan for a fee or other  
31 consideration paid directly or indirectly.

32 (b) "Broker" does not include a person solely because of the person's:

33 (i) real estate brokerage activities; or

34 (ii) activities as an attorney licensed to practice law in this state who, in the course of  
35 the attorney's practice as an attorney, assists a person in obtaining a mortgage loan.

36 (2) "Business as a lender, broker, or servicer" means a person who engages in an act for  
37 compensation or in the expectation of compensation that makes the person a lender, broker, or  
38 servicer.

39 (3) (a) Except as provided in Subsection (3)~~(b)~~(c), "lender" means a person who in  
40 the regular course of business originates a loan secured by a mortgage.

41 (b) "Lender" includes a mortgage lender.

42 ~~(b)~~ (c) "Lender" does not include a person who:

43 (i) as a seller only receives one or more mortgages as security for a purchase money  
44 obligation; or

45 (ii) only receives a mortgage as security for an obligation:

46 (A) payable on an installment or deferred payment basis; and

47 (B) arising out of materials furnished or services rendered in the improvement of real  
48 property.

49 (4) "Manufactured home" means a transportable factory built housing unit that:

50 (a) is constructed:

51 (i) on or after June 15, 1976, according to the National Manufactured Housing  
52 Construction and Safety Standards Act of 1974; and

53 (ii) in one or more sections, which:

54 (A) in the traveling mode, is eight body feet or more in width or 40 body feet or more  
55 in length; or

56 (B) when erected on site, is 400 or more square feet;

57 (b) is built on a permanent chassis;

58 (c) is designed to be used as a dwelling with or without a permanent foundation when  
59 connected to the required utilities; and

60 (d) includes the plumbing, heating, air-conditioning, and electrical systems.

61 (5) "Mobile home" means a transportable factory built housing unit built before June  
62 15, 1976, in accordance with a state mobile home code that existed before the National  
63 Manufactured Housing Construction and Safety Standards Act of 1974.

64 (6) "Modular home" means a modular unit as defined in Section 15A-1-302.

65 (7) "Mortgage lender" means an entity that performs each of the following related to  
66 originating a mortgage loan:

67 (a) taking and processing an application;

68 (b) providing a required disclosure;

69 (c) in some circumstances, underwriting the mortgage loan and making the final credit  
70 approval decision;

71 (d) closing the mortgage loan in its name;

72 (e) funding the mortgage loan; and

73 (f) selling the mortgage loan to an investor.

74 [(7)] (8) "Nationwide database" means the Nationwide Mortgage Licensing System and  
75 Registry, authorized under 12 U.S.C. Sec. 5101 for federal licensing of mortgage loan  
76 originators.

77 [(8)] (9) "Permanently affixed" means anchored to, and supported by, a permanent  
78 foundation or installed in accordance with the manufactured housing installation standard code  
79 referred to in Section 15A-1-202.

80 [(9)] (10) "Servicer" means a person who in the regular course of business assumes  
81 responsibility for servicing and accepting payments for a mortgage loan.

82 Section 2. Section 70D-2-201 is amended to read:

83 **70D-2-201. Registration -- Exemptions.**

84 (1) (a) Except as provided in Subsection (2), a person may not engage in business as a  
85 lender, broker, or servicer in this state before the day on which the person:

86 (i) provides evidence satisfactory to the commissioner that the person is registered with  
87 the nationwide database; and

88 (ii) pays a fee required by Section 70D-2-203.

89 (b) The commissioner may by rule, made in accordance with Title 63G, Chapter 3,  
90 Utah Administrative Rulemaking Act, provide for the transition of persons registering with the  
91 nationwide database.

92 (2) The following persons are exempt from this part, except for a reimbursement or fee  
93 described in Subsection 70D-2-203(2):

94 (a) a federally insured depository institution;

95 (b) a wholly owned subsidiary of a depository institution described in Subsection  
96 (2)(a); and

97 (c) a person who:

98 (i) is required to be licensed with the Division of Real Estate pursuant to Title 61,  
99 Chapter 2c, Utah Residential Mortgage Practices and Licensing Act; and

100 (ii) is not a:

101 (A) servicer[-]; or

102 (B) mortgage lender.

103 (3) A mortgage lender who is required to be registered under this chapter is not exempt  
104 from Title 61, Chapter 2c, Utah Residential Mortgage Practices and Licensing Act.