

**Superseded 5/12/2015**

**70D-3-402 Prohibited acts.**

- (1) An individual transacting the business of a loan originator in this state may not:
  - (a) violate or not comply with:
    - (i) this chapter;
    - (ii) an order of the commissioner under this chapter;
    - (iii) a rule made by the commissioner under this chapter;
    - (iv) Title 70C, Utah Consumer Credit Code, if subject to that title; or
    - (v) Chapter 2, Mortgage Lending and Servicing Act, if subject to that chapter;
  - (b) engage in an act that is performed to:
    - (i) evade this chapter; or
    - (ii) assist another person to evade this chapter;
  - (c) do any of the following to induce a lender to extend credit as part of a residential mortgage loan transaction:
    - (i) make a false statement or representation;
    - (ii) cause a false document to be generated; or
    - (iii) knowingly permit false information to be submitted by a person in a transaction;
  - (d) fail to respond within the required time period to:
    - (i) a notice or complaint of the commissioner; or
    - (ii) a request for information from the commissioner;
  - (e) make a false representation to the commissioner, including in a licensure application;
  - (f) engage in the business of a loan originator with respect to a residential mortgage loan transaction if the individual also acts in any of the following capacities with respect to the same residential mortgage loan transaction:
    - (i) appraiser;
    - (ii) escrow agent;
    - (iii) real estate agent;
    - (iv) general contractor; or
    - (v) title insurance agent;
  - (g) engage in an act or omission in transacting the business of a loan originator that constitutes dishonesty, fraud, or misrepresentation;
  - (h) engage in false or misleading advertising;
  - (i)
    - (i) fail to account for money received in connection with a residential mortgage loan;
    - (ii) use money for a different purpose than the purpose for which the money is received; or
    - (iii) subject to Subsection (3), retain money paid for services if the services are not performed;
  - (j) fail, within 90 calendar days of a request from a borrower who has paid for an appraisal, to give a copy of an appraisal ordered and used for a residential mortgage loan to the borrower;
  - (k) recommend or encourage default, delinquency, or continuation of an existing default or delinquency, by a mortgage applicant on an existing indebtedness before the closing of a residential mortgage loan that will refinance all or part of the indebtedness; or
  - (l) pay or offer to pay an individual who does not hold a license under this chapter for services that require the individual to hold a license under this chapter.
- (2)
  - (a) An individual engaging solely in loan processor or underwriter activities, may not represent to the public that the individual can or will perform any act of a loan originator.
  - (b) A representation prohibited under this Subsection (2) includes an advertisement or other means of communicating or providing information including the use of:

- (i) a business card;
  - (ii) stationery;
  - (iii) a brochure;
  - (iv) a sign;
  - (v) a rate list; or
  - (vi) another promotional item.
- (3) Notwithstanding Subsection (1)(i)(iii), if a licensee complies with Section 70D-2-305, the licensee may charge a reasonable cancellation fee for services completed to originate a residential mortgage loan if the residential mortgage loan is not closed.