

1 **INTEREST ON MORTGAGE LOAN RESERVE**

2 **ACCOUNTS AMENDMENTS**

3 2000 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Greg J. Curtis**

6 AN ACT RELATING TO FINANCIAL INSTITUTIONS; ADDRESSING THE APPLICATION
7 OF PROVISIONS ON MORTGAGE LOAN RESERVE ACCOUNTS; AND MAKING
8 TECHNICAL CHANGES.

9 This act affects sections of Utah Code Annotated 1953 as follows:

10 AMENDS:

11 **7-17-1**, as enacted by Chapter 124, Laws of Utah 1979

12 **7-17-10**, as enacted by Chapter 124, Laws of Utah 1979

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

14 Section 1. Section **7-17-1** is amended to read:

15 **7-17-1. Legislative intent.**

16 [It] (1) Except as provided in Subsection (2), it is the intent of the Legislature that the
17 provisions of this [act] chapter govern the rights, duties, and liabilities of borrowers and lenders
18 with respect to reserve accounts established before and after [the effective date of this act] July 1,
19 1979.

20 (2) This chapter may not be applied to a reserve account to the extent that the reserve
21 account is at issue in an action:

22 (a) that is filed before July 1, 1979; and

23 (b) for which, as of May 1, 2000, a final unappealable judgment or order has not been
24 issued by a court of competent jurisdiction.

25 Section 2. Section **7-17-10** is amended to read:

26 **7-17-10. Applicability of chapter to accounts and actions thereon.**

27 [The] (1) Except as provided in Subsection (2), provisions of this [act] chapter shall apply:

- 28 [~~1~~] (a) to all reserve accounts; and
- 29 [~~2~~] (b) to all actions filed after January 1, 1979, to recover interest on or other
- 30 compensation for the use of the funds in any reserve account whether or not the reserve accounts
- 31 were established prior to or subsequent to July 1, 1979.
- 32 (2) (a) This chapter may not be applied to a reserve account to the extent that the reserve
- 33 account is at issue in an action:
- 34 (i) that is filed before July 1, 1979; and
- 35 (ii) for which, as of May 1, 2000, a final unappealable judgment or order has not been
- 36 issued by a court of competent jurisdiction.
- 37 (b) A person may not rely on this chapter in an action filed prior to July 1, 1979.

Legislative Review Note
as of 2-14-00 3:49 PM

This legislation raises the following constitutional or statutory concerns:

By prohibiting the application of statutes adopted in 1979 to pending cases filed before July 1, 1979, this bill may raise constitutional issues. For example, if the application of the amendments is interpreted as affecting substantive rights, the bill might be challenged as improper retroactive legislation. However, there are circumstances where courts have permitted retrospective application of statute to clarify legislative intent or correct procedural errors. Also, principles of separations of powers and special legislation limit a legislature's ability to affect pending judicial proceedings if a court determines that the legislation is an attempt to intervene in a specific judicial proceeding. If challenged, it would be for the courts to decide whether this bill constitutes a permitted clarification of how the legislature intended the statutes to be applied.

Office of Legislative Research and General Counsel