

Representative Paul Ray proposes the following substitute bill:

MORTGAGE LENDING DISCLOSURES

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Paul Ray

This act amends code provisions dealing with residential mortgage loans. The act prohibits real estate brokers from offering financial incentives to a borrower to steer the borrower to use a specific lender for a residential mortgage loan. The act requires disclosures to be given in connection with residential mortgage loans, including disclosures related to loan-to-value information, mortgage life and disability insurance, and prepayment penalties. The act makes technical changes.

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

AMENDS:

61-2c-301, as enacted by Chapter 329, Laws of Utah 2000

ENACTS:

61-2-25, Utah Code Annotated 1953

61-2c-303, Utah Code Annotated 1953

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

Section 1. Section **61-2-25** is enacted to read:

61-2-25. Unlawful financial incentive.

It is unlawful for a real estate broker to give or offer compensation, as defined in Section 61-2c-102, as an incentive to a borrower to use a specific lender for a residential mortgage loan, as defined in Section 61-2c-102.

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

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

(1) A person transacting the business of residential mortgage loans in this state may not:



26 (a) give or receive compensation [~~or anything of value~~], as defined in Section 61-2c-102,
27 in exchange for a referral of residential mortgage loan business unless the compensation [~~or thing~~
28 ~~of value~~] is de minimis as defined by the division;

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

30 (i) that is excessive; or

31 (ii) if the person does not comply with Section 70D-1-6;

32 (c) give or receive compensation [~~or anything of value~~], as defined in Section 61-2c-102,
33 in exchange for a referral of settlement or loan closing services related to a residential mortgage
34 loan transaction;

35 (d) make a false statement or representation for purposes of inducing a lender to extend
36 credit as part of a residential mortgage loan transaction;

37 (e) give or receive compensation [~~or anything of value~~], as defined in Section 61-2c-102,
38 to influence the independent judgment of an appraiser in reaching a value conclusion in a
39 residential mortgage loan transaction;

40 (f) violate or not comply with:

41 (i) this chapter;

42 (ii) an order of the commission or division; or

43 (iii) a rule made by the division;

44 (g) fail to respond within the required time period to:

45 (i) a notice or complaint of the division; or

46 (ii) a request for information from the division;

47 (h) make false representations to the division, including in a registration statement;

48 (i) engage in unprofessional conduct as defined by rule; or

49 (j) engage in an act or omission in transacting the business of residential mortgage loans
50 that constitutes dishonesty, fraud, or misrepresentation.

51 (2) A person violates this chapter if, for a criminal offense involving moral turpitude,
52 whether or not the crime is related to the business of residential mortgage loans, that person while
53 registered under this chapter:

54 (a) is convicted;

55 (b) pleads guilty or nolo contendere;

56 (c) enters a plea in abeyance; or

57 (d) is subjected to a criminal disposition similar to the ones described in Subsections (2)(a)
58 through (c).

59 Section 3. Section **61-2c-303** is enacted to read:

60 **61-2c-303. Notice requirements.**

61 (1) Every person in the business of residential mortgage loans shall give to each person
62 from whom it receives or for whom it prepares a written application for a residential mortgage
63 loan:

64 (a) a written notice disclosing, if such is the case, that the residential mortgage loan applied
65 for will result in total indebtedness secured by mortgages against the applicant's dwelling
66 exceeding the fair market value of the dwelling and informing the applicant that this loan-to-value
67 circumstance:

68 (i) may adversely affect the ability of the applicant in the future to refinance or sell the
69 dwelling; and

70 (ii) may have adverse consequences on the deductibility of interest paid on the mortgage
71 loan by the applicant for income tax purposes;

72 (b) a written notice disclosing, if the lender offers mortgage life or disability insurance to
73 the applicant:

74 (i) that the applicant is not required to purchase mortgage life or disability insurance in
75 connection with the residential mortgage loan; and

76 (ii) the applicant's right to receive a refund of amounts paid by the applicant in certain
77 circumstances under applicable law; and

78 (c) a written notice disclosing, if such is the case, that a prepayment penalty or fee may be
79 owed in connection with the residential mortgage loan, including:

80 (i) details of when the prepayment penalty or fee may be owed and a description of how
81 it will be calculated; and

82 (ii) an illustration of how the prepayment penalty or fee would be calculated on a \$100,000
83 principal payoff.

84 (2) Subsection (1)(c) does not apply to a federally insured mortgage loan or to a mortgage
85 loan by the Utah Housing Corporation.

86 (3) The written notices required by this section shall be provided at the time of closing of
87 the residential mortgage loan.

