

2nd Sub. H.B. 249
LICENSING MORTGAGE LOAN OFFICERS

Representative **J. Morgan Philpot** proposes the following amendments:

1. Page 1, Line 16: After line 16 insert:
"61-2c-105, as last amended by Chapters 159 and 204, Laws of Utah 2002"

2. Page 7, Line 196: After line 196 insert:
"Section 4. Section **61-2c-105** is amended to read:
61-2c-105. Scope of chapter.
(1) (a) This chapter applies to a closed-end residential mortgage loan secured by a first lien or equivalent security interest on a dwelling.
(b) This chapter does not apply to a transaction covered by Title 70C, Utah Consumer Credit Code.
(2) The following are exempt from this chapter:
(a) the federal government;
(b) a state;
(c) a political subdivision of a state;
(d) an agency of or entity created by a governmental entity described in Subsections (2)(a) through (c) including:
(i) the Utah Housing Corporation created in Title 9, Chapter 4, Part 9, Utah Housing Corporation Act;
(ii) the Federal National Mortgage Corporation;
(iii) the Federal Home Loan Mortgage Corporation;
(iv) the Federal Deposit Insurance Corporation;
(v) the Resolution Trust Corporation;
(vi) the Government National Mortgage Association;
(vii) the Federal Housing Administration;
(viii) the National Credit Union Administration;
(ix) the Farmers Home Administration; and
(x) the Department of Veterans Affairs;
(e) a depository institution;
(f) an affiliate of a depository institution;
(g) any firm or corporation;

- (i) whose principal purpose or activity is lending money on real property that is secured by a trust deed;
- (ii) approved as a seller or servicer by the:
 - (A) Federal National Mortgage Association; or
 - (B) Federal Home Loan Mortgage Corporation; and
- (iii) approved as a supervised or nonsupervised mortgagee by the:
 - (A) Department of Housing and Urban Development; and
 - (B) Department of Veterans Affairs;
- ~~(g)~~ (h) an employee or agent of an entity described in Subsections (2)(a) through ~~(f)~~ (g) when that person acts on behalf of the entity described in Subsections (2)(a) through ~~(f)~~ (g);
- ~~(h)~~ (i) an individual or entity:
 - (i) that makes a loan:
 - (A) secured by an interest in real property;
 - (B) with the individual's or the entity's own money; and
 - (C) for the individual's or entity's own investment; and
 - (ii) that does not engage in the business of making loans secured by an interest in real property;
- ~~(i)~~ (j) an individual or entity who receives a mortgage, deed of trust, or lien interest on real property if the individual or entity:
 - (i) is the seller of real property; and
 - (ii) receives the mortgage, deed of trust, or lien interest on real property as security for a separate money obligation;
- ~~(j)~~ (k) an individual or entity who receives a mortgage, deed of trust, or lien interest on real property if:
 - (i) the individual or entity receives the mortgage, deed of trust, or lien interest as security for an obligation payable on an installment or deferred payment basis;
 - (ii) the obligation described in Subsection (2)~~(j)~~(k)(i) arises from an individual or entity providing materials or services used in the improvement of the real property that is the subject of the mortgage, deed of trust, or lien interest; and
 - (iii) the mortgage, deed of trust, or lien interest was created without the consent of the owner of the real property that is the subject of the mortgage, deed of trust, or lien interest;
- ~~(k)~~ (l) a nonprofit corporation that:
 - (i) is exempt from paying federal income taxes;
 - (ii) is certified by the United States Small Business Administration as a small business investment company;

- (iii) is organized to promote economic development in this state; and
- (iv) has as its primary activity providing financing for business expansion;
- ~~[(t)]~~ (m) a court appointed fiduciary; or
- ~~[(m)]~~ (n) an attorney admitted to practice law in this state:
 - (i) if the attorney is not principally engaged in the business of negotiating residential mortgage loans; and
 - (ii) when the attorney renders services in the course of the attorney's practice as an attorney.
- (3) (a) Notwithstanding Subsection (2)~~[(m)]~~(n), an attorney exempt from this chapter may not engage in conduct described in Section 61-2c-301 when transacting business of residential mortgage loans.
- (b) If an attorney exempt from this chapter violates Subsection (3)(a), the attorney:
 - (i) is not subject to enforcement by the division under Part 4, Enforcement; and
 - (ii) is subject to disciplinary action generally applicable to an attorney admitted to practice law in this state.
- (c) If the division receives a complaint alleging an attorney exempt from this chapter is in violation of Subsection (3)(a), the division shall forward the complaint to the Utah State Bar for disciplinary action."

Renumber remaining sections accordingly.