

1 TECHNICAL AMENDMENTS TO ASSUMPTION  
2 OF INDEBTEDNESS ON RESIDENTIAL REAL  
3 PROPERTY

4 2007 GENERAL SESSION

5 STATE OF UTAH

6 Chief Sponsor: Scott K. Jenkins

7 House Sponsor: Stephen D. Clark

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8  
9 LONG TITLE

10 General Description:

11 This bill makes technical changes to provisions related to assumption of indebtedness  
12 on residential real property.

13 Highlighted Provisions:

14 This bill:

15 ▶ makes technical changes to a provision addressing accelerating or maturing an  
16 indebtedness, including clarifying sentence structure and updating language.

17 Monies Appropriated in this Bill:

18 None

19 Other Special Clauses:

20 None

21 Utah Code Sections Affected:

22 AMENDS:

23 57-15-8.5, as enacted by Chapter 224, Laws of Utah 1981

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

26 Section 1. Section 57-15-8.5 is amended to read:

27 57-15-8.5. Acceleration or maturing an indebtedness -- Conditions authorizing --

28 Exemption of loans sold to federal agencies.

29 (1) As used in this section, "obligor" means the original borrower or, if the secured

30 party or lender has previously approved, and pursuant to that approval there has been effected,  
31 an assumption of the indebtedness, the person last approved as an assumer and who has  
32 assumed the indebtedness.

33 (2) (a) Notwithstanding [~~the provisions of~~] Sections 57-15-2 and 57-15-4, a lender or  
34 secured party may accelerate or mature an indebtedness upon assumption of that indebtedness  
35 if:

36 [~~(1) A~~] (i) a written agreement with, or a written instrument executed by, the obligor  
37 on the indebtedness allows the secured party or lender to accelerate or mature the indebtedness  
38 [~~and/or~~], increase the interest rate [~~thereon~~] on the indebtedness, or both upon assumption of  
39 the indebtedness; [~~and~~]

40 [~~(2) The~~] (ii) the secured party or lender has offered to accept the assumption without  
41 acceleration and without maturing the indebtedness provided the assumer [~~agree~~] agrees to pay  
42 the secured party or lender;

43 (A) not more than a 1% assumption fee[;];

44 (B) subject to Subsection (2)(b), a not more than 1% interest rate increase effective as  
45 of the date of assumption, whichever is earlier[;]; and

46 (C) subject to Subsection (2)(b), a further not more than 1% interest rate increase  
47 effective a date five years after the date of assumption, whichever is earlier[; ~~Neither of said~~  
48 ~~interest rate increases may cause the total interest rate on the indebtedness to exceed 1% below~~  
49 ~~the weighted average yield of the Federal Home Loan Mortgage Corporation weekly auction~~  
50 ~~for purchases of mortgages secured by residential 1 to 4 family dwellings in effect on the date~~  
51 ~~of the increase~~]; and

52 [~~(3) The~~] (iii) the assumer [~~has refused~~] refuses to consent to [~~such~~] the assumption  
53 fee and interest rate increases described in Subsection (2)(a)(ii).

54 (b) Neither of the interest rate increases described in Subsection (2)(a)(ii) may cause  
55 the total interest rate on the indebtedness to exceed 1% below the weighted average yield of the  
56 Federal Home Loan Mortgage Corporation weekly auction for purchases of mortgages secured  
57 by residential one to four family dwellings in effect on the date of the increase.

58           ~~[As used in this section, the term "obligor" shall mean the original borrower or, if the~~  
59 ~~secured party or lender has previously approved, and pursuant to that approval there has been~~  
60 ~~effected, an assumption of the indebtedness, the person last approved as an assumer and who~~  
61 ~~has assumed the indebtedness.]~~

62           (3) If a determination is made by the Federal National Mortgage Association or by the  
63 Federal Home Loan Mortgage Corporation that it will not purchase Utah mortgage loans  
64 because of the effects of this ~~[act]~~ section, and ~~[such]~~ the determination is communicated in  
65 writing to the Legislature or governor of this state, then this ~~[act]~~ section will not apply, after  
66 receipt of ~~[such]~~ the communication, to any mortgages originated after ~~[the effective date of~~  
67 ~~this act]~~ May 12, 1981 and sold to the entity making ~~[such]~~ the determination.