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RESIDENTIAL MORTGAGE FRAUD ACT

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Sheldon L. Killpack

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Utah Criminal Code relating to offenses against property and creating an offense of residential mortgage fraud.

Highlighted Provisions:

This bill:

- ▶ provides that a person commits the offense of residential mortgage fraud if the person, with the intent to defraud, does any of the following:
 - knowingly makes any deliberate misstatement, misrepresentation, or material omission during the mortgage lending process that is relied upon by a mortgage lender, borrower, or any other party to the mortgage lending process;
 - knowingly uses or facilitates the use of any deliberate misstatement, misrepresentation, or material omission during the mortgage lending process that is relied on by a mortgage lender, borrower, or any other party to the mortgage lending process;
 - files or causes to be filed with any county recorder of this state any document that the person knows contains a deliberate misstatement, misrepresentation, or material omission;
 - receives any proceeds or any compensation in connection with a residential mortgage loan that the person knows resulted from a violation; or
 - assists, abets, solicits, or conspires with another to commit a violation;



- 28 ▶ provides for penalties; and
- 29 ▶ provides definitions.

30 **Monies Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 ENACTS:

36 **76-6-1201**, Utah Code Annotated 1953

37 **76-6-1202**, Utah Code Annotated 1953

38 **76-6-1203**, Utah Code Annotated 1953

39 **76-6-1204**, Utah Code Annotated 1953



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

42 Section 1. Section **76-6-1201** is enacted to read:

43 **Part 12. Utah Residential Mortgage Fraud Act**

44 **76-6-1201. Title.**

45 This part is known as the "Utah Residential Mortgage Fraud Act."

46 Section 2. Section **76-6-1202** is enacted to read:

47 **76-6-1202. Definitions.**

48 As used in this part:

49 (1) "Mortgage lending process" means the process through which a person seeks or
50 obtains a residential mortgage loan, including solicitation, application, or origination,
51 negotiation of terms, third-party provider services, underwriting, signing and closing, and
52 funding of the loan.

53 (2) "Pattern of residential mortgage fraud" means one or more misstatements,
54 misrepresentations, or omissions made during a mortgage lending process that:

55 (a) involve two or more residential properties; and

56 (b) (i) have the same or similar intents, results, accomplices, victims, or methods of
57 commission; or

58 (ii) otherwise are interrelated by distinguishing characteristics.

59 (3) "Residential mortgage loan":

60 (a) means a loan or agreement made to extend credit to a person, when the loan is
61 secured by a deed, security deed, mortgage, security interest, deed of trust, or other document
62 representing a security interest or lien upon any interest in one-to-four family residential
63 property; and

64 (b) includes the renewal or refinancing of any loan.

65 Section 3. Section **76-6-1203** is enacted to read:

66 **76-6-1203. Residential mortgage fraud.**

67 A person commits the offense of residential mortgage fraud if the person does any of
68 the following with the intent to defraud:

69 (1) knowingly makes any deliberate misstatement, misrepresentation, or material
70 omission during the mortgage lending process that is relied upon by a mortgage lender,
71 borrower, or any other party to the mortgage lending process;

72 (2) knowingly uses or facilitates the use of any deliberate misstatement,
73 misrepresentation, or material omission, during the mortgage lending process that is relied on
74 by a mortgage lender, borrower, or any other party to the mortgage lending process;

75 (3) files or causes to be filed with any county recorder in Utah any document that the
76 person knows contains a deliberate misstatement, misrepresentation, or material omission;

77 (4) receives any proceeds or any compensation in connection with a residential
78 mortgage loan that the person knows resulted from a violation of this section; or

79 (5) assists, abets, solicits, or conspires with another to violate this section.

80 Section 4. Section **76-6-1204** is enacted to read:

81 **76-6-1204. Classification of offense.**

82 (1) Notwithstanding any other administrative, civil, or criminal penalties, a person who
83 violates this section is guilty of a:

84 (a) class A misdemeanor when the value is or exceeds \$300 but is less than \$1,000;

85 (b) third degree felony when the value is or exceeds \$1,000 but is less than \$5,000;

86 (c) second degree felony when the value is or exceeds \$5,000;

87 (d) second degree felony when the object of the commission of an act of mortgage
88 fraud is other than the obtaining of something of monetary value; and

89 (e) second degree felony when the object or purpose of the commission of an act of

90 mortgage fraud is the obtaining of sensitive personal identifying information, regardless of the
91 value.

92 (2) The determination of the degree of any offense under Subsection (1) is measured by
93 the total value of all property, money, or things obtained or sought to be obtained by a violation
94 of Section 76-6-1203, except as provided in Subsections (1)(d) and (e).

95 (3) It is a second degree felony to engage or participate in a pattern of residential
96 mortgage fraud or conspire to engage or participate in a pattern of residential mortgage fraud.

97 (4) In addition to any other penalty for a violation of this section, the sentencing judge
98 may impose any penalty or remedy provided in Subsection 61-2-21(2)(d).

99 (5) In addition to any other penalty for a violation of this part, any license or
100 registration issued by the Division of Real Estate, which is created in Section 61-2-5, to any
101 person or entity convicted of a violation of this section is automatically revoked.

102 (6) Each residential property transaction subject to a violation of this part constitutes a
103 separate violation.

Legislative Review Note
as of 1-10-08 3:42 PM

Office of Legislative Research and General Counsel

S.B. 134 - Residential Mortgage Fraud Act

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
