

**Representative Gage Froerer** proposes the following substitute bill:

**MODULAR HOME AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gage Froerer**

Senate Sponsor: Evan J. Vickers

---

**LONG TITLE**

**General Description:**

This bill modifies the Financial Institution Mortgage Financing Regulation Act to address modular homes.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ exempts modular homes from provisions that address manufactured or mobile homes;
- ▶ provides a process by which modular homes are treated as real property; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**70D-2-102**, as last amended by Laws of Utah 2011, Chapter 14

**70D-2-401**, as renumbered and amended by Laws of Utah 2009, Chapter 72



26 ENACTS:

27 **70D-2-401.5**, Utah Code Annotated 1953



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

30 Section 1. Section **70D-2-102** is amended to read:

31 **70D-2-102. Definitions.**

32 As used in this chapter:

33 (1) (a) Except as provided in Subsection (1)(b), "broker" means a person who in the  
34 regular course of business assists a person in obtaining a mortgage loan for a fee or other  
35 consideration paid directly or indirectly.

36 (b) "Broker" does not include a person solely because of the person's:

37 (i) real estate brokerage activities; or

38 (ii) activities as an attorney licensed to practice law in this state who, in the course of  
39 the attorney's practice as an attorney, assists a person in obtaining a mortgage loan.

40 (2) "Business as a lender, broker, or servicer" means a person who engages in an act for  
41 compensation or in the expectation of compensation that makes the person a lender, broker, or  
42 servicer.

43 (3) (a) Except as provided in Subsection (3)(b), "lender" means a person who in the  
44 regular course of business originates a loan secured by a mortgage.

45 (b) "Lender" does not include a person who:

46 (i) as a seller only receives one or more mortgages as security for a purchase money  
47 obligation; or

48 (ii) only receives a mortgage as security for an obligation:

49 (A) payable on an installment or deferred payment basis; and

50 (B) arising out of materials furnished or services rendered in the improvement of real  
51 property.

52 (4) "Manufactured home" means a transportable factory built housing unit that:

53 (a) is constructed:

54 (i) on or after June 15, 1976, according to the National Manufactured Housing  
55 Construction and Safety Standards Act of 1974; and

56 (ii) in one or more sections, which:

57 (A) in the traveling mode, is eight body feet or more in width or 40 body feet or more  
58 in length; or

59 (B) when erected on site, is 400 or more square feet;

60 (b) is built on a permanent chassis;

61 (c) is designed to be used as a dwelling with or without a permanent foundation when  
62 connected to the required utilities; and

63 (d) includes the plumbing, heating, air-conditioning, and electrical systems.

64 (5) "Mobile home" means a transportable factory built housing unit built before June  
65 15, 1976, in accordance with a state mobile home code that existed before the National  
66 Manufactured Housing Construction and Safety Standards Act of 1974.

67 (6) "Modular home" means a modular unit as defined in Section 15A-1-302.

68 [~~(6)~~] (7) "Permanently affixed" means anchored to, and supported by, a permanent  
69 foundation or installed in accordance with the manufactured housing installation standard code  
70 referred to in Section 15A-1-202.

71 [~~(7)~~] (8) "Servicer" means a person who in the regular course of business assumes  
72 responsibility for servicing and accepting payments for a mortgage loan.

73 Section 2. Section **70D-2-401** is amended to read:

74 **70D-2-401. Qualification of manufactured home or mobile home as improvement**  
75 **to real property -- Requirements -- Removal from property -- Exception for modular**  
76 **home.**

77 (1) Except as provided in this section, for purposes of this chapter, a manufactured  
78 home or mobile home is considered personal property.

79 (2) Notwithstanding Subsection (1), for purposes of this chapter, if the requirements of  
80 this section are met, a manufactured home or mobile home is:

81 (a) considered to be an improvement to real property; and

82 (b) considered as real property.

83 (3) A manufactured home or mobile home is considered to be an improvement to real  
84 property if:

85 (a) the manufactured home or mobile home is permanently affixed to real property;

86 (b) the person seeking to have the manufactured home or mobile home considered to  
87 be an improvement to real property:

- 88 (i) owns the manufactured home or mobile home;
- 89 (ii) (A) owns the real property to which the manufactured home or mobile home is
- 90 permanently affixed; or
- 91 (B) leases the real property to which the manufactured home or mobile home is
- 92 permanently affixed and the real property is financed in accordance with Subsection (4); and
- 93 (iii) meets the requirements of Subsections (5) and (6); and
- 94 (c) in accordance with Subsection (7), the following are recorded by the county
- 95 recorder:
  - 96 (i) the affidavit of affixture described in Subsection (7); and
  - 97 (ii) the receipt of surrender described in Subsection (7).
- 98 (4) For purposes of Subsection (3)(b)(ii)(B), a manufactured home or mobile home
- 99 shall be financed in accordance with the guidelines established by:
  - 100 (a) the Federal Home Loan Mortgage Corporation;
  - 101 (b) the Federal National Mortgage Association;
  - 102 (c) the United States Department of Agriculture; or
  - 103 (d) another entity that requires as part of the entity's financing program restrictions:
    - 104 (i) on:
      - 105 (A) ownership; and
      - 106 (B) actions affecting title and possession; and
    - 107 (ii) if the restrictions described in Subsection (4)(d)(i) are similar to restrictions
    - 108 imposed by one or more of the entities described in Subsections (4)(a) through (c).
  - 109 (5) (a) An owner of a manufactured home or mobile home seeking to have the
  - 110 manufactured home or mobile home considered to be an improvement to real property and
  - 111 considered real property shall complete an affidavit of affixture.
    - 112 (b) An affidavit of affixture described in Subsection (5)(a) shall contain:
      - 113 (i) the vehicle identification numbers of the manufactured home or mobile home;
      - 114 (ii) the legal description of the real property to which the manufactured home or mobile
      - 115 home is permanently affixed;
      - 116 (iii) a statement certified by the assessor of the county in which the manufactured home
      - 117 or mobile home is located that the owner of the manufactured home or mobile home:
      - 118 (A) is not required to pay personal property tax in this state on the manufactured home

119 or mobile home; or

120 (B) if the manufactured home or mobile home is subject to personal property tax in this  
121 state, has paid all current and prior year personal property taxes assessed on the manufactured  
122 home or mobile home;

123 (iv) a description of any security interests in the manufactured home or mobile home;  
124 and

125 (v) a receipt of surrender issued by the Motor Vehicle Division of the State Tax  
126 Commission in accordance with Subsection (6).

127 (6) (a) The Motor Vehicle Division of the State Tax Commission shall issue a receipt  
128 of surrender under Subsection (5)(b)(v) if an owner described in Subsection (5) surrenders to  
129 the Motor Vehicle Division the:

130 (i) manufacturer's original certificate of origin; or

131 (ii) title to the manufactured home or mobile home.

132 (b) After issuing the receipt of surrender in Subsection (6)(a), the Motor Vehicle  
133 Division shall maintain a permanent record of:

134 (i) the receipt of surrender; and

135 (ii) the certificate or title described in Subsection (6)(a)(ii).

136 (7) (a) An owner shall present to the county recorder:

137 (i) the affidavit of affixture described in Subsection (5); and

138 (ii) the receipt of surrender described in Subsection (6).

139 (b) A county recorder who receives an affidavit of affixture and receipt of surrender  
140 described in Subsection (7)(a) shall record the receipt of surrender and affidavit of affixture.

141 (c) An owner of property described in Subsection (5) shall provide a copy of the  
142 recorded affidavit of affixture to:

143 (i) the Motor Vehicle Division of the Tax Commission; and

144 (ii) the assessor of the county in which the manufactured home or mobile home is  
145 located.

146 (8) A lien on the manufactured home or mobile home that is considered to be an  
147 improvement to real property shall be perfected in the manner provided for the perfection of a  
148 lien on real property.

149 (9) If a manufactured home or mobile home owner separates the manufactured home or

150 mobile home from the real property, the owner may acquire a new title by submitting to the  
151 Motor Vehicle Division of the State Tax Commission:

152 (a) a recorded affidavit that the manufactured home or mobile home is removed from  
153 the real property; and

154 (b) an application for a new title.

155 (10) The determination of whether a manufactured home or mobile home is considered  
156 real property or personal property under this section may not be considered in determining  
157 whether the manufactured home or mobile home is real property or personal property for  
158 purposes of taxation under Title 59, Chapter 2, Property Tax Act.

159 (11) This section does not apply to a modular home.

160 Section 3. Section **70D-2-401.5** is enacted to read:

161 **70D-2-401.5. Qualification of modular home as improvement to real property --**

162 **Requirements.**

163 (1) Except as provided in this section, for purposes of this chapter, a modular home is  
164 considered ~~§~~ to be ~~←~~ personal property.

165 (2) Once a modular home is constructed on real property and the modular home is  
166 taxed as real property, it is presumed that the owner of the real property also owns the modular  
167 home.

168 (3) For purposes of this chapter, if the requirements of this section are met, a modular  
169 home is:

170 (a) considered to be an improvement to real property; and

171 (b) considered ~~§~~ [as] to be ~~←~~ real property.

172 (4) A modular home is considered to be an improvement to real property if:

173 (a) the modular home is permanently affixed to real property;

174 (b) the person seeking to have the modular home considered to be an improvement to  
175 real property:

176 (i) owns the real property to which the modular home is or will be permanently affixed;  
177 and

178 (ii) ~~§~~ [owns] controls the use and possession of ~~←~~ the modular home;

179 (c) the person described in Subsection (4)(b) records the document required to be  
180 recorded under Subsection (6); and

181 (d) the modular home is assessed ~~§~~ → [or is intended to be assessed] ← ~~§~~ as real property for  
182 purposes of property taxes.

183 (5) (a) The person seeking to have a modular home considered to be an improvement  
184 to real property and considered ~~§~~ → to be ← ~~§~~ real property shall complete an affidavit of real  
184a property.

185 (b) An affidavit of real property described in Subsection (5)(a) shall contain:

186 (i) the legal description of the real property to which the modular home is or will be  
187 permanently affixed;

188 (ii) a statement certified by the assessor of the county in which the modular home is  
189 located that the modular home is taxed as real property for purposes of property taxes; and

190 (iii) a statement that all liens or security interests in the modular home under Title 70A,  
191 Uniform Commercial Code, as personal property have been released.

192 (6) (a) The person seeking treatment of a modular home as real property shall present  
193 to the county recorder the affidavit of real property described in Subsection (5).

194 (b) A county recorder who receives an affidavit of real property described in  
195 Subsection (6)(a) shall record the affidavit of real property.

196 (c) A person described in Subsection (6)(a) shall provide a copy of the recorded  
197 affidavit of real property to the assessor of the county in which the modular home is located.

198 (7) A lien on a modular home that is considered to be an improvement to real property  
199 shall be perfected in the manner provided for the perfection of a lien on real property.