

1 **Uniform Mortgage Modification Act**

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jordan D. Teuscher

Senate Sponsor: Michael K. McKell

3 **LONG TITLE**

4 **General Description:**

5 This bill provides for modifications that may be made to recorded mortgages and
6 obligations.

7 **Highlighted Provisions:**

8 This bill:

9 ▶ codifies the types of modifications that may be made to a mortgage loan that will not
10 materially prejudice interest holders; and

11 ▶ contains safe harbor provisions for mortgage modifications that do not materially
12 prejudice the holders of a junior interest.

13 **Money Appropriated in this Bill:**

14 None

15 **Other Special Clauses:**

16 None

17 **Utah Code Sections Affected:**

18 ENACTS:

19 **70D-4-101**, Utah Code Annotated 1953

20 **70D-4-201**, Utah Code Annotated 1953

21 **70D-4-301**, Utah Code Annotated 1953

22 **70D-4-401**, Utah Code Annotated 1953

23 **70D-4-501**, Utah Code Annotated 1953

24 **70D-4-601**, Utah Code Annotated 1953

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

27 Section 1. Section **70D-4-101** is enacted to read:

28 **70D-4-101 . Definitions.**

29 (1) "Electronic" means relating to technology having electrical, digital, magnetic, wireless,
30 optical, electromagnetic, or similar capabilities.

- 31 (2) "Financial covenant" means an undertaking to demonstrate an obligor's creditworthiness
32 or the adequacy of security provided by an obligor.
- 33 (3) "Modification" includes change, amendment, revision, correction, addition,
34 supplementation, elimination, waiver, and restatement.
- 35 (4)(a) "Mortgage" means an agreement that creates a consensual interest in real property
36 to secure payment or performance of an obligation regardless of how the agreement
37 is denominated, including a mortgage, deed of trust, trust deed, security deed,
38 indenture, or deed to secure debt, and regardless of whether the agreement also
39 creates a security interest in personal property.
- 40 (b) "Mortgage" does not include an agreement that creates a consensual interest to
41 secure a liability owed by a unit owner to a condominium association, owners
42 association, or cooperative housing association for association dues, fees, or
43 assessments.
- 44 (5) "Mortgage modification" means modification of:
- 45 (a) a mortgage;
- 46 (b) an agreement that creates an obligation, including a promissory note, loan
47 agreement, or credit agreement; or
- 48 (c) an agreement that creates other security or credit enhancement for an obligation,
49 including an assignment of leases or rents or a guaranty.
- 50 (6) "Obligation" means a debt or other duty or liability secured by a mortgage.
- 51 (7) "Obligor" means a person that:
- 52 (a) owes payment or performance of an obligation;
- 53 (b) signs a mortgage; or
- 54 (c) is otherwise accountable, or whose property serves as collateral, for payment or
55 performance of an obligation.
- 56 (8) "Person" means an individual, estate, business or nonprofit entity, government or
57 governmental subdivision, agency, instrumentality, or other legal entity.
- 58 (9) "Recognized index" means an index to which changes in the interest rate may be linked
59 that is readily available to, and verifiable by, the obligor and is beyond the control of the
60 person to whom the obligation is owed.
- 61 (10) "Record" means information:
- 62 (a) inscribed on a tangible medium; or
- 63 (b) stored in an electronic or other medium and retrievable in perceivable form.
- 64 (11) "Sign" means, with present intent to authenticate or adopt a record:

- 65 (a) to execute or adopt a tangible symbol; or
66 (b) to attach to or logically associate with the record an electronic symbol, sound, or
67 process.

68 Section 2. Section **70D-4-201** is enacted to read:

69 **70D-4-201 . Scope.**

- 70 (1) Except as provided in Subsection (3), this chapter applies to a mortgage modification.
71 (2) This chapter does not affect the following law of this state:
72 (a) law governing the required content of a mortgage;
73 (b) a statute of limitations or other law governing the expiration or termination of a right
74 to enforce an obligation or a mortgage;
75 (c) a recording statute;
76 (d) a statute governing the priority of a tax lien or other governmental lien;
77 (e) a statute of frauds; or
78 (f) except as provided in Subsection 70D-4-301(2)(h), law governing the priority of a
79 future advance.

80 (3) This chapter does not apply to:

- 81 (a) a release of, or addition to, property encumbered by a mortgage;
82 (b) a release of, addition of, or other change in an obligor; or
83 (c) an assignment or other transfer of a mortgage or an obligation.

84 Section 3. Section **70D-4-301** is enacted to read:

85 **70D-4-301 . Effect of mortgage modification.**

- 86 (1) For a mortgage modification described in Subsection (2):
87 (a) the mortgage continues to secure the obligation as modified;
88 (b) the priority of the mortgage is not affected by the modification;
89 (c) the mortgage retains the mortgage's priority regardless of whether a record of the
90 mortgage modification is recorded; and
91 (d) the modification is not a novation.
92 (2) Subsection (1) applies to one or more of the following:
93 (a) an extension of the maturity date of an obligation;
94 (b) a decrease in the interest rate of an obligation;
95 (c) if there is any change as specified in Subsection (2)(c)(i) through (iv) that does not
96 result in an increase in the interest rate as calculated on the date the modification
97 becomes effective:
98 (i) a change to a different recognized index if the previous index is no longer

- 99 available;
- 100 (ii) a change in the differential between the index and the interest rate;
- 101 (iii) a change from a floating or adjustable rate to a fixed rate; and
- 102 (iv) a change from a fixed rate to a floating or adjustable rate based on a recognized
- 103 index;
- 104 (d) a capitalization of unpaid interest or other unpaid obligation;
- 105 (e) a forgiveness, forbearance, or other reduction of principal, accrued interest, or other
- 106 monetary obligation;
- 107 (f) a modification of a requirement for maintaining an escrow or reserve account for
- 108 payment of an obligation, including taxes, insurance premiums, or another obligation;
- 109 (g) a modification of a requirement for acquiring or maintaining insurance;
- 110 (h) a modification of an existing condition to advance funds;
- 111 (i) a modification of a financial covenant; and
- 112 (j) a modification of the payment amount or schedule resulting from another
- 113 modification described in this Subsection (2).

114 (3) The effect of a mortgage modification not described in Subsection (2) is governed by

115 other law.

116 Section 4. Section **70D-4-401** is enacted to read:

117 **70D-4-401 . Uniformity of application and construction.**

118 In applying and construing this uniform act, a court shall consider the promotion of

119 uniformity of the law among jurisdictions that enact it.

120 Section 5. Section **70D-4-501** is enacted to read:

121 **70D-4-501 . Relation to Electronic Signatures in Global and National Commerce**

122 **Act.**

123 This chapter modifies, limits, or supersedes the Electronic Signatures in Global and

124 National Commerce Act, 15 U.S.C. Sec. 7001 et seq. , but does not modify, limit, or supersede

125 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in 15

126 U.S.C. Sec. 7003(b).

127 Section 6. Section **70D-4-601** is enacted to read:

128 **70D-4-601 . Transitional Provision.**

129 This chapter applies to a mortgage modification made on or after May 7, 2025,

130 regardless of when the mortgage or the obligation was created.

131 Section 7. **Effective date.**

132 This bill takes effect on May 7, 2025.