

Part 1 General Provisions

70D-2-101 Short title.

This chapter is known as the "Mortgage Lending and Servicing Act."

Renumbered and Amended by Chapter 72, 2009 General Session

70D-2-102 Definitions.

As used in this chapter:

- (1)
 - (a) Except as provided in Subsection (1)(b), "broker" means a person who in the regular course of business assists a person in obtaining a mortgage loan for a fee or other consideration paid directly or indirectly.
 - (b) "Broker" does not include a person solely because of the person's:
 - (i) real estate brokerage activities; or
 - (ii) activities as an attorney licensed to practice law in this state who, in the course of the attorney's practice as an attorney, assists a person in obtaining a mortgage loan.
- (2) "Business as a lender, broker, or servicer" means a person who engages in an act for compensation or in the expectation of compensation that makes the person a lender, broker, or servicer.
- (3)
 - (a) Except as provided in Subsection (3)(c), "lender" means a person who in the regular course of business originates a loan secured by a mortgage.
 - (b) "Lender" includes a mortgage lender.
 - (c) "Lender" does not include a person who:
 - (i) as a seller only receives one or more mortgages as security for a purchase money obligation; or
 - (ii) only receives a mortgage as security for an obligation:
 - (A) payable on an installment or deferred payment basis; and
 - (B) arising out of materials furnished or services rendered in the improvement of real property.
- (4) "Manufactured home" means a transportable factory built housing unit that:
 - (a) is constructed:
 - (i) on or after June 15, 1976, according to the National Manufactured Housing Construction and Safety Standards Act of 1974; and
 - (ii) in one or more sections, which:
 - (A) in the traveling mode, is eight body feet or more in width or 40 body feet or more in length; or
 - (B) when erected on site, is 400 or more square feet;
 - (b) is built on a permanent chassis;
 - (c) is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities; and
 - (d) includes the plumbing, heating, air-conditioning, and electrical systems.
- (5) "Mobile home" means a transportable factory built housing unit built before June 15, 1976, in accordance with a state mobile home code that existed before the National Manufactured Housing Construction and Safety Standards Act of 1974.
- (6) "Modular home" means a modular unit as defined in Section 15A-1-302.

- (7) "Mortgage lender" means an entity that performs each of the following related to originating a mortgage loan:
 - (a) taking and processing an application;
 - (b) providing a required disclosure;
 - (c) in some circumstances, underwriting the mortgage loan and making the final credit approval decision;
 - (d) closing the mortgage loan in its name;
 - (e) funding the mortgage loan; and
 - (f) selling the mortgage loan to an investor.
- (8) "Nationwide database" means the Nationwide Mortgage Licensing System and Registry, authorized under 12 U.S.C. Sec. 5101 for federal licensing of mortgage loan originators.
- (9) "Permanently affixed" means anchored to, and supported by, a permanent foundation or installed in accordance with the manufactured housing installation standard code referred to in Section 15A-1-202.
- (10) "Servicer" means a person who in the regular course of business assumes responsibility for servicing and accepting payments for a mortgage loan.

Amended by Chapter 106, 2016 General Session

70D-2-103 Exemptions.

This chapter does not apply to:

- (1) a bona fide nonprofit corporation that grants a first mortgage loan to promote home ownership for low and moderate income borrowers;
- (2) an agency of the following that grants a first mortgage loan under a specific federal or state law:
 - (a) the federal government;
 - (b) a state, county, or municipal government; or
 - (c) a quasi-governmental agency;
- (3) a casual lender that makes less than five mortgage loans a year; or
- (4) a mortgage loan of two years or less.

Renumbered and Amended by Chapter 72, 2009 General Session

70D-2-104 Ordinance or law by political subdivision prohibited.

- (1) A county subject to Title 17, Counties, and a municipality subject to Title 10, Utah Municipal Code, may not enact an ordinance or law that:
 - (a) regulates a term of a mortgage loan on a dwelling; or
 - (b) makes the eligibility of a person to do business with the county or municipality dependent upon a term of a mortgage loan on a dwelling originated or serviced by the person.
- (2) Subsection (1) does not apply to a term or loan funded in whole or in part with money provided or administered by the county or municipality.

Renumbered and Amended by Chapter 72, 2009 General Session