

Part 12 Utah Mortgage Fraud Act

76-6-1201 Title.

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

Enacted by Chapter 370, 2008 General Session

76-6-1202 Definitions.

As used in this part:

- (1) "Mortgage lending process" means the process through which a person seeks or obtains a mortgage loan, including solicitation, application, or origination, negotiation of terms, third-party provider services, underwriting, signing and closing, and funding of the loan.
- (2) "Mortgage loan":
 - (a) means a loan or agreement made to extend credit to a person when the loan is secured by a deed, security deed, mortgage, security interest, deed of trust, or other document representing a security interest or lien upon any interest in one-to-four family residential property; and
 - (b) includes the renewal or refinancing of any loan.
- (3) "Pattern of unlawful activity" has the same definition as in Section 76-10-1602.
- (4) "Sensitive personal identifying information" includes:
 - (a) the following information regarding an individual's:
 - (i) Social Security number;
 - (ii) driver license number or other government issued identification number;
 - (iii) financial account number or credit or debit card number;
 - (iv) password or personal identification number or other identification required to gain access to a financial account or a secure website;
 - (v) automated or electronic signature; and
 - (vi) unique biometric data; and
 - (b) any other information that can be used to gain access to an individual's financial accounts or to obtain goods or services.
- (5) "Value" means the value of the property, money, or thing obtained or sought to be obtained.

Enacted by Chapter 370, 2008 General Session

76-6-1203 Mortgage fraud.

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

- (1) knowingly makes any material misstatement, misrepresentation, or omission during the mortgage lending process, intending that it be relied upon by a mortgage lender, borrower, or any other party to the mortgage lending process;
- (2) knowingly uses or facilitates the use of any material misstatement, misrepresentation, or omission, during the mortgage lending process, intending that it be relied upon by a mortgage lender, borrower, or any other party to the mortgage lending process;
- (3) files or causes to be filed with any county recorder in Utah any document that the person knows contains a material misstatement, misrepresentation, or omission; or

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

Enacted by Chapter 370, 2008 General Session

76-6-1204 Classification of offense.

- (1) Notwithstanding any other administrative, civil, or criminal penalties, a person who violates Section 76-6-1203 is guilty of a:
 - (a) class A misdemeanor when the value is or exceeds \$500 but is less than \$1,500;
 - (b) third degree felony when the value is or exceeds \$1,500 but is less than \$5,000;
 - (c) second degree felony when the value is or exceeds \$5,000; and
 - (d) second degree felony when the object or purpose of the commission of an act of mortgage fraud is the obtaining of sensitive personal identifying information, regardless of the value.
- (2) The determination of the degree of any offense under Subsection (1) is measured by the total value of all property, money, or things obtained or sought to be obtained by a violation of Section 76-6-1203, except as provided in Subsection (1)(d).
- (3) Each residential or commercial property transaction offense under this part constitutes a separate violation.

Amended by Chapter 193, 2010 General Session