

REGULATION OF MORTGAGE LENDERS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Gerry A. Adair

AN ACT RELATING TO MORTGAGE FINANCING; PROHIBITING CERTAIN CONDUCT.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

70D-1-19, Utah Code Annotated 1953

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

Section 1. Section **70D-1-19** is enacted to read:

70D-1-19. Prohibited conduct.

(1) For purposes of this section "residential mortgage loan" means a mortgage loan secured by a dwelling that will be owned and occupied by a signatory to the mortgage loan within 90 calendar days of the execution of the mortgage loan.

(2) For a transaction involving a residential mortgage loan, a person subject to the notification requirements of Section 70D-1-10, may not:

(a) propose, prepare, or cause to be prepared a document, agreement, closing statement, or any other device or scheme, that does not reflect the true terms of a transaction;

(b) knowingly participate in a transaction in which a device described in Subsection (2)(a) is used;

(c) participate in a transaction in which a mortgagor enters into an agreement that:

(i) is not disclosed to the mortgage lender; and

(ii) if disclosed, may have a material effect on the terms or the granting of a mortgage loan;

(d) use or propose the use of two or more purchase agreements, one of which is not made known to a prospective mortgage lender or loan guarantor;

(e) provide compensation, directly or indirectly, to an appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of any real estate which is to be covered by a residential mortgage; or

(f) participate in a transaction if at the time of the transaction the person knew or should

have known that:

(i) as a result of the transaction, the total of all residential mortgage loans outstanding on the dwelling that is secured by those loans exceeds the fair market value of the dwelling; and

(ii) because the residential mortgage loans exceed the fair market value of the dwelling as described in Subsection (2)(f)(i), the mortgagor would not be able to pay the mortgage loan in full.