

**OBLIGATIONS RELATED TO MORTGAGE
LOAN RESERVE ACCOUNTS**

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: John E. Swallow

This act modifies the Financial Institutions Act to exempt loans made, renewed, or modified after May 6, 2002 from certain obligations related to reserve accounts and to make technical changes.

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

AMENDS:

7-17-4, as enacted by Chapter 124, Laws of Utah 1979

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

Section 1. Section **7-17-4** is amended to read:

7-17-4. Options in lieu of reserve account -- Notice by lender -- Selection by borrower -- Noninterest-bearing reserve account -- Exemption.

(1) A lender not requiring the establishment and maintenance of a reserve account shall offer the borrower the following options:

(a) the borrower may elect to maintain a noninterest-bearing reserve account to be serviced by the lender at no charge to the borrower; or

(b) the borrower may manage the payment of insurance premiums, taxes and other charges for ~~his~~ the borrower's own account.

(2) (a) The lender shall give written notice of the options to the borrower:

(i) with respect to real estate loans existing on ~~[the effective date]~~ July 1, 1979, by notice mailed not more than 30 days after ~~[the effective date]~~ July 1, 1979; or

(ii) with respect to real estate loans made on or after ~~[the effective date]~~ July 1, 1979, by notice given at or prior to the closing of the loan.

(b) The notice required by this Subsection (2) shall:

(i) clearly describe the options; and

(ii) state that:

- (A) a reserve account is not required by the lender~~[, that]~~;
- (B) the borrower is legally responsible for the payment of taxes, insurance premiums, and other charges; and ~~[that]~~
- (C) the notice is being given pursuant to this ~~[act]~~ chapter.
- (c) For real estate loans in existence on ~~[the effective date]~~ July 1, 1979, the borrower must select one of the options prior to 60 days after ~~[the effective date]~~ July 1, 1979.
- (d) If no option is selected prior to 60 days after ~~[the effective date]~~ July 1, 1979, the borrower will be ~~[deemed]~~ considered to have selected the option described in Subsection (1)(a), provided, however, that the borrower at a later time may select the option described in Subsection (1)(b).
- (e) For loans made on or after ~~[the effective date]~~ July 1, 1979, the borrower shall select one of the options at the closing.
- (f) If the borrower selects the option described in Subsection (1)(a), the lender ~~[shall]~~ may not be required to account for earnings, if any, on the account.
- (3) (a) ~~[If]~~ Subject to Subsection (3)(b), if the borrower who selects the option described in Subsection (1)(b), or ~~[his]~~ the borrower's successors or assigns, fails to pay the taxes, insurance premiums, or other charges pertaining to the property securing the loan prior to the delinquency date for such payments, the lender may require a reserve account without interest or other compensation for the use of the funds~~[-provided, that]~~.
- (b) Notwithstanding Subsection (3)(a), the lender may not require a reserve account without interest or other compensation if:
- ~~[(a)]~~ (i) the borrower pays any delinquency within 30 days; and
- ~~[(b)]~~ (ii) the borrower has not previously been delinquent in payment of taxes, insurance premiums, or other charges.
- (4) This section does not apply to a loan made, renewed, or modified on or after May 6, 2002.