

1 **OBLIGATIONS RELATED TO MORTGAGE**

2 **LOAN RESERVE ACCOUNTS**

3 2002 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: John E. Swallow**

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

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

9 AMENDS:

10 **7-17-4**, as enacted by Chapter 124, Laws of Utah 1979

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

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

13 **7-17-4. Options in lieu of reserve account -- Notice by lender -- Selection by**
14 **borrower -- Noninterest-bearing reserve account.**

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

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

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

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

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

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

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

27 **(i)** clearly describe the options; and



28 (ii) state that:

29 (A) a reserve account is not required by the lender~~[-that]~~;

30 (B) the borrower is legally responsible for the payment of taxes, insurance premiums, and
31 other charges; and ~~[that]~~

32 (C) the notice is being given pursuant to this ~~[act]~~ chapter.

33 (c) For real estate loans in existence on ~~[the effective date]~~ July 1, 1979, the borrower must
34 select one of the options prior to 60 days after ~~[the effective date]~~ July 1, 1979.

35 (d) If no option is selected prior to 60 days after ~~[the effective date]~~ July 1, 1979, the
36 borrower will be ~~[deemed]~~ considered to have selected the option described in Subsection (1)(a),
37 provided, however, that the borrower at a later time may select the option described in Subsection
38 (1)(b).

39 (e) For loans made on or after ~~[the effective date]~~ July 1, 1979, the borrower shall select
40 one of the options at the closing.

41 (f) If the borrower selects the option described in Subsection (1)(a), the lender ~~[shall]~~ may
42 not be required to account for earnings, if any, on the account.

43 (3) (a) ~~[If]~~ Subject to Subsection (3)(b) if, the borrower who selects the option described
44 in Subsection (1)(b), or ~~[his]~~ the borrower's successors or assigns, fails to pay the taxes, insurance
45 premiums, or other charges pertaining to the property securing the loan prior to the delinquency
46 date for such payments, the lender may require a reserve account without interest or other
47 compensation for the use of the funds~~[-provided, that]~~.

48 (b) Notwithstanding Subsection (3)(a), the lender may not require a reserve account
49 without interest or other compensation if:

50 ~~[(a)]~~ (i) the borrower pays any delinquency within 30 days; and

51 ~~[(b)]~~ (ii) the borrower has not previously been delinquent in payment of taxes, insurance
52 premiums, or other charges.

53 (4) This section does not apply to a loan made, renewed, or modified on or after May 6,
54 2002.

Legislative Review Note
as of 1-23-02 4:53 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel