Utah

STATE HIGH COST/PREDATORY LENDING REGULATIONS

Last Updated: May 2016

LAW: Utah High Cost Home Loan Act (Utah Code, Title 61, Chapter 02d)

LOAN AMOUNT COVERED: None set

BORROWERS COVERED:

- [x] Individuals
- [ ] Organizations
- [x] Trusts
- [ ] Other:

TOTAL LOAN AMOUNT (TLA) IS DEFINED AS: Utah Code, Title 61, Chapter 02d

- [ ] Loan Amount as defined in HOEPA 226.32
- [ ] Loan Amount as defined in HCML 1026.32
- [ ] Note Amount
- [x] Other: not defined with the regulation so we assume those defined in Section 32/HOEPA loans

LOAN TYPES COVERED:

- [x] Conventional
- [x] VA
- [ ] Other:
- [x] FHA
- [x] RHS

LOAN PURPOSES COVERED:

- [x] Purchase
- [ ] Builder
- [x] Equity Out
- [x] One Time Closing
- [x] Purchase Plus Improvements
- [ ] Lot Loan
- [x] Borrower Interim
- [x] HELOC
- [x] Construction to Perm
- [x] Refinance
- [x] Home Equity Closed End
- [ ] Modification
- [x] Refinance Plus Improvements
- [x] Home Improvement
- [x] One Time Closing with Modification
- [x] Assumption

BRIDGE LOANS COVERED

- [x] Yes
- [ ] No

PROPERTY OCCUPANCY COVERED:

- [x] Primary Residence
- [ ] Investment
- [ ] Second Home
- [ ] Raw Land

APR THRESHOLDS: http://le.utah.gov/xcode/Title61/Chapter2D/61-2d-S102.html?v=C61-2d-S102_1800010118000101

- [x] APR
- [ ] Unteased APR
- [ ] Other:

First Lien: 8 %

Subordinate Lien: 10 %

APR COMPARED AGAINST: Utah Code, Title 61, Chapter 02d

- [ ] APOR
- [x] Treasury Yield
- [ ] APR Itself
- [ ] Other:

DATE FOR APR TEST:

	Application	Closing
x	Other: 15th day of the month immediately preceding the month the application is received by the lender	

FEE TEST METHOD: Utah Code, Title 61, Chapter 02d

	Use HC Flag
	Use APR & Paid To (§1026.32)
x	Use APR & Paid To, except: include fees payable to lender or any third party per 61-2d-105

FEE TEST THRESHOLDS: Utah Code, Title 61, Chapter 02d
All liens: Greater of 8 % of TLA or $1017

ADJUSTMENTS:
No x Yes | How: Every Jan 1 with CPI

FEES INCLUDED IN TEST: Utah Code, Title 61, Chapter 02d

"Points & Fees" and "Total loan amount" are not defined with the regulation so we assume those defined in Section 32/HOEPA loans

OTHER ITEMS TO BE TESTED/CONSIDERED:

SPECIAL NOTES: Utah Code, Title 61, Chapter 02d

61-2d-103. Prepayment penalty.

(1) The terms of a high-cost mortgage loan may contain terms under which a borrower must pay a penalty for prepayment.
(a) However, a penalty for prepayment cannot be assessed more than 36 months after the loan was originally made.
(b) The amount of the penalty may not exceed the total amount of interest paid at 80% of the immediately preceding six scheduled payments.

(2) For purposes of this section, any method of computing a refund or unearned scheduled interest is a prepayment penalty if it is less favorable to the borrower than the actuarial method.
(3) Notwithstanding Subsection (1), a high-cost mortgage may not require a prepayment penalty if:
(a) the high-cost mortgage is paid with the proceeds of a new loan by the same lender or an affiliate of that lender; or
(b) the penalty is prohibited under other applicable law.

(4) If a prepayment does not pay the full amount owed on the high-cost mortgage when the prepayment is made, the penalty shall be reduced by a percentage equal to the percentage of the balance owed before the prepayment that remains unpaid.
61-2d-104. Negative amortization prohibited.
A high cost mortgage shall provide for regular, periodic payments sufficient to pay:
(1) all accrued interest and a portion of principal on the scheduled due date for each payment; and

(2) the full amount owed during the term of the loan, if no late fees or other contingent charges are incurred.

61-2d-105. Financing points and fees -- Restrictions.

(1) A lender may not, in connection with the formation or consummation of a high-cost mortgage, finance, directly or indirectly, any portion of the points, fees, or other charges payable to the lender or any third party in an amount in excess of 8% of the total loan amount, unless the following additional disclosures are made to the borrower in conspicuous type size:
(a) "You are not required to complete this agreement merely because you have received these disclosures or have signed the loan application."
(b) "If you obtain this loan, the lender will have a mortgage on your home. You could lose your home or property, and any money you have put into it, if you do not meet your obligations under this loan."
(c) "The timing and amount of payments on debts you already are carrying contribute to the credit rating that is used to determine whether you may get a new loan and how much you will pay for that new loan. You should not accept any advice to ignore or delay making any payment on loans you already have, even if those loans will be paid off with the new loan."
(d) "You may get into serious financial difficulties if you use this loan to pay off old debts and then run up other new debts."

(2) The disclosures required by this section shall be given to the borrower no less than three business days prior to consummation of the transaction.
(3) After providing the disclosure required by this section, a lender may not change the terms of the extension of credit if such changes make the disclosures inaccurate, unless new disclosures are provided that meet the requirements of this section.
(4) A lender may provide new disclosures pursuant to Subsection (3) by telephone, if:
(a) the change is initiated by the borrower; and
(b) at the consummation of the transaction under which the credit is extended:
(i) the lender provides to the borrower the new disclosures in writing; and
(ii) the lender and borrower certify in writing that the new disclosures were provided by telephone, at least three days prior to the date of consummation of the transaction.

61-2d-106. Arbitration clauses.
To be valid, an arbitration clause in a high-cost mortgage contract must comply with the standards set forth in Title 78B, Chapter 11, Utah Uniform Arbitration Act or the Federal Arbitration Act, or any successor acts.
61-2d-107. Prohibition on single premium credit life insurance.
A borrower credit transaction involving a high-cost mortgage may not include:
(1) the offer or sale of any insurance policy, on a single premium or single fee basis, that insures, guarantees, or indemnifies the repayment of the outstanding balance of the loan against:
(a) death;
(b) illness;
(c) accident;
(d) disability; or
(e) unemployment of the borrower; or

(2) debt cancellation or a debt suspension agreement.
61-2d-108. Increase in employees.
Funds allocated for investigations in this chapter may only be used to employ additional employees if there is a 10% increase in caseloads.
61-2d-109. Copies.

The lender shall provide, at no cost to the borrower, a complete set of all documents pertaining to the transaction, including copies of all documents to be executed or recorded and any loan documents changed at the closing:

(1) at the time of the closing if done in person; or

(2) no later than three business days from the closing if done by mail or any other format.

61-2d-110. Encouraging default prohibited.

(1) A lender may not recommend or encourage default or nonpayment leading to foreclosure on an existing loan or other debt prior to and in connection with the closing or planned closing of a high-cost mortgage that refinances all or any portion of such existing loan or debt.

(2) This section applies to all loans.

61-2d-111. Mortgage forms.

All lines, figures, forms, and blanks that regulate, govern, control, and authorize a mortgage must be filled in before the documents are signed.

61-2d-112. Notice of information available to borrowers.

(1) In addition to any other notice or disclosure a lender or title company may provide to a borrower seeking, obtaining, or inquiring about a high-cost mortgage, the lender shall provide the borrower any brochure or other document information prepared by a federal or state authority in a form intended to inform consumers about home loans or consumer credit on financing or educational resources on financing.

(2) The requirement set forth in Subsection (1) may include:

(a) the posting, in a public area of the office, notice indicating that educational resources are available;

(b) a list of educational opportunities or programs offered in the surrounding area including the program name and phone number;

(c) a printed brochure or booklet on responsible lending and borrowing available to the borrower at no charge; or

(d) information from the Department of Financial Institutions on its responsible consumer financial educational program.