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Sent via Email

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Residential Mortgage Regulatory Commission
Utah Department of Commerce
Division of Real Estate
60 E Broadway # 205,
Salt Lake City, UT 84111

Re: Utah Principal Lending Manager Experience Requirement Commission Follow up Response Letter

Dear Utah Residential Mortgage Regulatory Commission and Utah DRE Team,

Thank you for allowing us to bring our UT Lending Manager experience proposal and engaging in a meaningful discussion at the October 1, 2025, regulatory commission meeting this morning. We hope to continue the conversation regarding our proposal.

As discussed, our goal is to find a way to adjust the experience requirement within the Utah Lending Manager License (“PLM”) application to allow for experienced business purpose lenders to obtain licensure.

Please accept this correspondence as a supplement to the discussion to address certain concerns raised during the meeting.

1. Other PLMs obtained their license under the current requirements, why should Utah change this?

We are requesting the Commission to exercise discretion and adjust the experience requirement (pursuant to Utah Code Section 61-2c-206(1)(d)) to accommodate experienced lending professionals who intend to *exclusively* engage in business purpose lending in Utah.

As the experience requirement stands, a PLM must provide evidence of a certain amount of first lien residential mortgages through *licensed* lending experience. Business purpose lenders are unable to meet this requirement because (1) most other states do not require a licensed MLO (and sometimes don’t require a company or the lender to be licensed) for business purpose loans, and (2) the Utah DRE verifies

loans through channels including the HUD, and business purpose loans are not subject to the same reporting standard, so such loans would not appear in their searches.

As an example, we had a client with extensive lending experience who applied for the PLM license. They completed the pre licensing education and received a passing score on the PLM exam. They then submitted proof of first lien residential loans they originated. These loans were rejected because they were not verifiable on the HUD. Per the applicable laws however, these loans were not required to be reported to the HUD.

In theory, a person with 30 years of lending experience who has originated thousands of first lien residential business purpose (non-consumer) loans may not be able to satisfy the experience requirements as drafted because the states they operate in do not require a license nor the reporting of these loans to the HUD.

2. What is stopping PLMs who obtain the license through a business purpose lending route from moving to a consumer lending company and/or doing consumer mortgage loans?

As it currently stands, there are a few protections already in place that may be utilized to address non-compliant consumer lending activity. Also, proposals 4(A) and (B) below discuss additional protections to further address this issue.

Our clients always state on their NMLS state licensing applications that they are engaging in business purpose lending only. As you are likely aware, NMLS requires that all applications be submitted **under penalty of perjury**. If PLMs are allowed to be licensed conditionally (for business purpose only), any PLM that later engages in consumer lending would be committing perjury, and subject to any Utah penalties.

On the monitoring side, we understand that all consumer loans are reported on the HUD. Accordingly, if any business purpose PLM's engaged in consumer lending, the non-compliant activity would be reported on the HUD. These loans could be discoverable in an audit by pulling applicable consumer records from the HUD.

3. Won't this flood the market and make housing more unaffordable?

Allowing additional business purpose lenders into Utah will not drive-up housing prices in the same way consumer mortgage lending would. Instead, it will give Utah businesses access to more capital, and increase housing and job opportunities. Additional capital in the market will decrease interest rates supporting further growth.

Our clients do not focus on owner-occupied consumer loans; they provide financing for products like fix and flip projects and DSCR loans (long-term rentals) for *investment properties*, which adds or improves supply rather than inflating demand from home buyers. Specifically, fix-and-flip financing directly improves Utah's housing stock by renovating and revitalizing existing homes, often older or

distressed properties, and returning them to the market in move-in-ready condition. This generally increases quality housing stock and can stabilize neighborhoods.

Further, by being licensed in Utah, business purpose lenders will be more inclined to expand into projects such as ground-up construction for single-family, multifamily, and commercial properties. These projects increase the overall supply of housing, which helps alleviate affordability pressures in the long run while also creating significant employment opportunities for Utah residents as these projects create demand for local contractors, tradespeople, and suppliers, generating jobs and stimulating Utah economic activity.

In short, this policy change will not flood the market, it will strengthen it by adding quality housing, creating jobs, and broadening economic opportunities across the state.

4. Proposal for guidelines in exercising discretion to accept “equivalent experience” under Utah Code Section 61-2c-206(1)(d)

Based on the discussions today in the commission meeting, please see below updated proposals to address the commission’s concerns.

A. Create a special designation for Lending Manager Licenses for business purpose lending.

One possible solution would be to create a new PLM license tailored to business purpose lenders (i.e. Lending Manager – Commercial License). Under this new license, all of requirements under Utah Code Section 61-2c-206 would remain the same, except for that 61-2c-206(1)(d) would allow for certification (see Section 4(C) below) or alternative experience standards. This business purpose PLM license would NOT be allowed to originate any consumer loans.

B. Amend the current experience requirements by allowing business purpose lenders to submit documents reflecting the required experience as pre-determined by UT-DRE.

Business purpose lenders could provide similar experience to the current requirements, with a few key differences. This could include PLMs providing evidence of residential and commercial loans that are not reported on HUD. For example, the experience requirements could be as follows:

- i. Business purpose lenders to provide evidence of **45** business purpose mortgages secured by first lien residential or commercial.
- ii. Business purpose lender to provide evidence of **30** business purpose mortgages secured by first lien residential or commercial plus up to 30 months of experience as a business purpose lender.

In lieu of HUD reporting, Lending Managers could potentially provide loan tapes, loan docs, internal data, etc.

C. Certification and/or attestation of conducting ONLY business-purpose lending activities.

To supplement the foregoing proposals in Section 4(A) and 4(B) above, an additional layer could be added to require PLMs to certify that they intend to **engage exclusively in business-purpose lending** via a signed letter in their PLM application on NMLS. This certification would also be submitted under the penalty of perjury on NMLS.

Thank you for hearing our perspective today. We look forward to continuing to work with the Commission to support the private lending community and the value it brings to Utah.

Sincerely,

FORTRA LAW

/s Jennifer Young

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Partner

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