

Superseded 5/13/2014

7-23-401 Operational requirements for deferred deposit loans.

- (1) If a deferred deposit lender extends a deferred deposit loan, the deferred deposit lender shall:
 - (a) post in a conspicuous location on its premises that can be viewed by a person seeking a deferred deposit loan:
 - (i) a complete schedule of any interest or fees charged for a deferred deposit loan that states the interest and fees using dollar amounts;
 - (ii) a number the person can call to make a complaint to the department regarding the deferred deposit loan; and
 - (iii) a list of states where the deferred deposit lender is registered or authorized to offer deferred deposit loans through the Internet or other electronic means;
 - (b) enter into a written contract for the deferred deposit loan;
 - (c) conspicuously disclose in the written contract:
 - (i) that under Subsection (3)(a), a person receiving a deferred deposit loan may make a partial payment in increments of at least \$5 on the principal owed on the deferred deposit loan without incurring additional charges above the charges provided in the written contract;
 - (ii) that under Subsection (3)(b), a person receiving a deferred deposit loan may rescind the deferred deposit loan on or before 5 p.m. of the next business day without incurring any charges;
 - (iii) that under Subsection (4)(b), the deferred deposit loan may not be rolled over without the person receiving the deferred deposit loan requesting the rollover of the deferred deposit loan;
 - (iv) that under Subsection (4)(c), the deferred deposit loan may not be rolled over if the rollover requires the person to pay the amount owed by the person under the deferred deposit loan in whole or in part more than 10 weeks after the day on which the deferred deposit loan is executed; and
 - (v)
 - (A) the name and address of a designated agent required to be provided the department under Subsection 7-23-201(2)(d)(vi); and
 - (B) a statement that service of process may be made to the designated agent;
 - (d) provide the person seeking the deferred deposit loan:
 - (i) a copy of the written contract described in Subsection (1)(c); and
 - (ii) written notice that if the person seeking the deferred deposit loan is eligible to enter into an extended payment plan, the deferred deposit lender provides an extended payment plan described in Section 7-23-403;
 - (e) orally review with the person seeking the deferred deposit loan the terms of the deferred deposit loan including:
 - (i) the amount of any interest rate or fee;
 - (ii) the date on which the full amount of the deferred deposit loan is due;
 - (iii) that under Subsection (3)(a), a person receiving a deferred deposit loan may make a partial payment in increments of at least \$5 on the principal owed on the deferred deposit loan without incurring additional charges above the charges provided in the written contract;
 - (iv) that under Subsection (3)(b), a person receiving a deferred deposit loan may rescind the deferred deposit loan on or before 5 p.m. of the next business day without incurring any charges;
 - (v) that under Subsection (4)(b), the deferred deposit loan may not be rolled over without the person receiving the deferred deposit loan requesting the rollover of the deferred deposit loan; and

- (vi) that under Subsection (4)(c), the deferred deposit loan may not be rolled over if the rollover requires the person to pay the amount owed by the person under the deferred deposit loan in whole or in part more than 10 weeks after the day on which the deferred deposit loan is executed; and
- (f) comply with the following as in effect on the date the deferred deposit loan is extended:
 - (i) Truth in Lending Act, 15 U.S.C. Sec. 1601 et seq., and its implementing federal regulations;
 - (ii) Equal Credit Opportunity Act, 15 U.S.C. Sec. 1691, and its implementing federal regulations;
 - (iii) Bank Secrecy Act, 12 U.S.C. Sec. 1829b, 12 U.S.C. Sec. 1951 through 1959, and 31 U.S.C. Sec. 5311 through 5332, and its implementing regulations; and
 - (iv) Title 70C, Utah Consumer Credit Code.
- (2) If a deferred deposit lender extends a deferred deposit loan through the Internet or other electronic means, the deferred deposit lender shall provide the information described in Subsection (1)(a) to the person receiving the deferred deposit loan:
 - (a) in a conspicuous manner; and
 - (b) prior to the person entering into the deferred deposit loan.
- (3) A deferred deposit lender that engages in a deferred deposit loan shall permit a person receiving a deferred deposit loan to:
 - (a) make partial payments in increments of at least \$5 on the principal owed on the deferred deposit loan at any time prior to maturity without incurring additional charges above the charges provided in the written contract; and
 - (b) rescind the deferred deposit loan without incurring any charges by returning the deferred deposit loan amount to the deferred deposit lender on or before 5 p.m. the next business day following the deferred deposit loan transaction.
- (4) A deferred deposit lender that engages in a deferred deposit loan may not:
 - (a) collect additional interest on a deferred deposit loan with an outstanding principal balance 10 weeks after the day on which the deferred deposit loan is executed;
 - (b) roll over a deferred deposit loan without the person receiving the deferred deposit loan requesting the rollover of the deferred deposit loan;
 - (c) roll over a deferred deposit loan if the rollover requires a person to pay the amount owed by the person under a deferred deposit loan in whole or in part more than 10 weeks from the day on which the deferred deposit loan is first executed;
 - (d) extend a new deferred deposit loan to a person on the same business day that the person makes a payment on another deferred deposit loan if the payment:
 - (i) is made at least 10 weeks after the day on which that deferred deposit loan is extended; and
 - (ii) results in the principal of that deferred deposit loan being paid in full;
 - (e) threaten to use or use the criminal process in any state to collect on the deferred deposit loan; or
 - (f) in connection with the collection of money owed on a deferred deposit loan, communicate with a person who owes money on a deferred deposit loan at the person's place of employment if the person or the person's employer communicates, orally or in writing, to the deferred deposit lender that the person's employer prohibits the person from receiving these communications.
- (5) Notwithstanding Subsections (4)(a) and (e), a deferred deposit lender that is the holder of a check used to obtain a deferred deposit loan that is dishonored may use the remedies and notice procedures provided in Chapter 15, Dishonored Instruments, except that the issuer, as defined in Section 7-15-1, of the check may not be:
 - (a) asked by the holder to pay the amount described in Subsection 7-15-1(6)(a)(iii) as a condition of the holder not filing a civil action; or

(b) held liable for the damages described in Subsection 7-15-1(7)(b)(vi).