

Chapter 24
Title Lending Registration Act

Part 1
General Provisions

7-24-101 Title.

This chapter is known as the "Title Lending Registration Act."

Enacted by Chapter 236, 2003 General Session

7-24-102 Definitions.

As used in this chapter:

- (1) "Nationwide database" means the Nationwide Mortgage Licensing System and Registry, authorized under 12 U.S.C. Sec. 5101 for federal licensing of mortgage loan originators.
- (2) "Rollover" means the extension or renewal of the term of a title loan.
- (3)
 - (a) "Title lender" means a person that extends a title loan.
 - (b) "Title lender" includes a person that:
 - (i) arranges a title loan on behalf of a title lender;
 - (ii) acts as an agent for a title lender; or
 - (iii) assists a title lender in the extension of a title loan.
- (4)
 - (a) "Title loan" means a loan secured by the title to a:
 - (i) motor vehicle, as defined in Section 41-6a-102;
 - (ii) mobile home, as defined in Section 41-6a-102; or
 - (iii) motorboat, as defined in Section 73-18-2.
 - (b) "Title loan" includes a title loan extended at the same premise on which any of the following are sold:
 - (i) a motor vehicle, as defined in Section 41-6a-102;
 - (ii) a mobile home, as defined in Section 41-6a-102; or
 - (iii) a motorboat, as defined in Section 73-18-2.
 - (c) "Title loan" does not include:
 - (i) a purchase money loan;
 - (ii) a loan made in connection with the sale of a:
 - (A) motor vehicle, as defined in Section 41-6a-102;
 - (B) mobile home, as defined in Section 41-6a-102; or
 - (C) motorboat, as defined in Section 73-18-2; or
 - (iii) a loan extended by an institution listed in Section 7-24-305.

Amended by Chapter 284, 2015 General Session

Part 2
Requirements

7-24-201 Registration -- Rulemaking.

- (1)
 - (a) It is unlawful for a person to extend a title loan in Utah or with a Utah resident unless the person:
 - (i) registers with the department in accordance with this chapter; and
 - (ii) maintains a valid registration.
 - (b) It is unlawful for a person to operate a mobile facility in this state to extend a title loan.
- (2)
 - (a) A registration and a renewal of a registration expires on December 31 of each year unless on or before that date the person renews the registration.
 - (b) To register under this section, a person shall:
 - (i) pay an original registration fee established under Subsection 7-1-401(8); and
 - (ii) submit a registration statement containing the information described in Subsection (2)(d).
 - (c) To renew a registration under this section, a person shall:
 - (i) pay the annual fee established under Subsection 7-1-401(5); and
 - (ii) submit a renewal statement containing the information described in Subsection (2)(d).
 - (d) A registration or renewal statement shall state:
 - (i) the name of the person;
 - (ii) the name in which the business will be transacted if different from that required in Subsection (2)(d)(i);
 - (iii) the address of the person's principal business office, which may be outside this state;
 - (iv) the addresses of all offices in this state at which the person extends title loans;
 - (v) if the person extends title loans in this state but does not maintain an office in this state, a brief description of the manner in which the business is conducted;
 - (vi) the name and address in this state of a designated agent upon whom service of process may be made;
 - (vii) disclosure of any injunction, judgment, administrative order, or conviction of any crime involving moral turpitude with respect to that person or any officer, director, manager, operator, or principal of that person;
 - (viii) evidence satisfactory to the department that the person is registered with the nationwide database; and
 - (ix) any other information required by the rules of the department.
 - (e)
 - (i) The commissioner may impose an administrative fine determined under Subsection (2)(e)(ii) on a person if:
 - (A) the person is required to be registered under this chapter;
 - (B) the person fails to register or renew a registration in accordance with this chapter;
 - (C) the department notifies the person that the person is in violation of this chapter for failure to be registered; and
 - (D) the person fails to register within 30 days after the day on which the person receives the notice described in Subsection (2)(e)(i)(C).
 - (ii) Subject to Subsection (2)(e)(iii), the administrative fine imposed under this Subsection (2)(e) is:
 - (A) \$500 if the person:
 - (I) has no office in this state at which the person extends a title loan; or
 - (II) has one office in this state at which the person extends a title loan; or
 - (B) if the person has two or more offices in this state at which the person extends a title loan, \$500 for each office at which the person extends a title loan.

- (iii) The commissioner may reduce or waive a fine imposed under this Subsection (2)(e) if the person shows good cause.
- (3) If the information in a registration or renewal statement required under Subsection (2) becomes inaccurate after filing, a person is not required to notify the department until:
 - (a) that person is required to renew the registration; or
 - (b) the department specifically requests earlier notification.
- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules consistent with this section:
 - (a) providing for the form, content, and filing of a registration and renewal statement; and
 - (b) providing for the transition of persons registering with the nationwide database.

Amended by Chapter 284, 2015 General Session

7-24-202 Operational requirements for title loans.

- (1) A title lender shall:
 - (a) post in a conspicuous location on its premises that can be viewed by a person seeking a title loan:
 - (i) a complete schedule of any interest or fees charged for a title loan that states the interest and fees:
 - (A) as dollar amounts; and
 - (B) as annual percentage rates; and
 - (ii) a telephone number a person may call to make a complaint to the department regarding a title loan;
 - (b) enter into a written contract for the title loan containing:
 - (i) the name of the person receiving the title loan;
 - (ii) the transaction date;
 - (iii) the amount of the title loan;
 - (iv) a statement of the total amount of any interest or fees that may be charged for the title loan, expressed as:
 - (A) a dollar amount; and
 - (B) an annual percentage rate; and
 - (v)
 - (A) the name and address of the designated agent required to be provided the department under Subsection 7-24-201(2)(d)(vi); and
 - (B) a statement that service of process may be made to the designated agent;
 - (c) provide the person seeking the title loan a copy of the written contract described in Subsection (1)(b);
 - (d) prior to the execution of the title loan:
 - (i) orally review with the person seeking the title loan the terms of the title loan including:
 - (A) the amount of any interest rate or fee, expressed as:
 - (I) a dollar amount; and
 - (II) an annual percentage rate; and
 - (B) the date on which the full amount of the title loan is due; and
 - (ii) provide the person seeking the title loan a copy of the disclosure form adopted by the department under Section 7-24-203; and
 - (e) comply with the following as in effect on the date the title 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 title lender extends a title loan through the Internet or other electronic means, the title lender shall:
- (a) provide the information described in Subsection (1)(a) to the person receiving the title loan:
 - (i) in a conspicuous manner; and
 - (ii) prior to the person entering into the title loan; and
 - (b) in connection with the disclosure required under Subsection (2)(a), provide a list of states where the title lender is registered or authorized to offer title loans through the Internet or other electronic means.
- (3) A title lender may not:
- (a) rollover a title loan unless the person receiving the title loan requests a rollover of the title loan;
 - (b) extend more than one title loan on any vehicle at one time;
 - (c) extend a title loan that exceeds the fair market value of the vehicle securing the title loan; or
 - (d) extend a title loan without regard to the ability of the person seeking the title loan to repay the title loan, including the person's:
 - (i) current and expected income;
 - (ii) current obligations; and
 - (iii) employment.
- (4) A title lender has met the requirements of Subsection (3)(d) if the person seeking a title loan provides the title lender with a signed acknowledgment that:
- (a) the person has provided the title lender with true and correct information concerning the person's income, obligations, and employment; and
 - (b) the person has the ability to repay the title loan.

Amended by Chapter 87, 2007 General Session

7-24-203 Disclosure form for title loans.

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall adopt a disclosure form for title loans that complies with this section.
- (2) The department shall specify by rule:
- (a) the information to be provided in the disclosure form including:
 - (i) the costs of obtaining a title loan;
 - (ii) the consequences of defaulting on a title loan;
 - (iii) generally available alternatives to a title loan; and
 - (iv) methods of obtaining credit counseling or other financial advice;
 - (b) the type size of the disclosure form; and
 - (c) the manner in which a title lender shall conspicuously provide the disclosure form to a person seeking a title loan.

Amended by Chapter 382, 2008 General Session

7-24-204 Remedy for default.

- Except in the event of fraud by a borrower, if a borrower defaults on a title loan:
- (1) the title lender's sole remedy is to seek repossession and sale of the property securing the title loan;

- (2) the title lender may not pursue the borrower personally for:
 - (a) repayment of the loan; or
 - (b) any deficiency after repossession and sale of the property securing the loan; and
- (3) after repossession and sale of the property securing the title loan, the title lender shall return to the borrower any proceeds from the sale in excess of the amount owed on the title loan.

Enacted by Chapter 236, 2003 General Session

Part 3 Enforcement

7-24-301 Enforcement by department -- Rulemaking.

- (1) Subject to the requirements of Title 63G, Chapter 4, Administrative Procedures Act, the department may:
 - (a) receive and act on complaints;
 - (b) take action designed to obtain voluntary compliance with this chapter; or
 - (c) commence administrative or judicial proceedings on its own initiative to enforce compliance with this chapter.
- (2) The department may:
 - (a) counsel persons and groups on their rights and duties under this chapter;
 - (b) make rules to:
 - (i) restrict or prohibit lending or servicing practices that are misleading, unfair, or abusive;
 - (ii) promote or assure fair and full disclosure of the terms and conditions of agreements and communications between title lenders and customers; or
 - (iii) promote or assure uniform application of or to resolve ambiguities in applicable state or federal laws or federal regulations; and
 - (c) employ hearing examiners, clerks, and other employees and agents as necessary to perform the department's duties under this chapter.

Amended by Chapter 382, 2008 General Session

7-24-302 Examination of books, accounts, and records by the department.

- (1) The department may examine the books, accounts, and records of a title lender and may make investigations to determine compliance with this chapter.
- (2) In accordance with Section 7-1-401, a title lender shall pay a fee for an examination conducted under Subsection (1).

Enacted by Chapter 236, 2003 General Session

7-24-303 Penalties.

- (1) A person who violates this chapter or who files materially false information with a registration or renewal under Section 7-24-201 is:
 - (a) guilty of a class B misdemeanor except for a violation of:
 - (i) Subsection 7-24-202(1)(e)(i), (ii), or (iii); or
 - (ii) rules made under Subsection 7-24-301(2)(b); and
 - (b) subject to revocation of a person's registration under this chapter.

- (2) Subject to Title 63G, Chapter 4, Administrative Procedures Act, if the department determines that a person is extending title loans in violation of this chapter, the department may:
- (a) revoke that person's registration under this chapter;
 - (b) issue a cease and desist order from committing any further violations;
 - (c) prohibit the person from continuing to extend title loans;
 - (d) impose an administrative fine not to exceed \$1,000 per violation, except that:
 - (i) a fine imposed under Subsection 7-24-201(2)(e) shall comply with Subsection 7-24-201(2)(e); and
 - (ii) the aggregate total of fines imposed under this chapter against a person in a calendar year may not exceed \$30,000 for that calendar year; or
 - (e) take any combination of actions listed under this Subsection (2).
- (3) A person is not subject to the penalties under this section for a violation of this chapter that was not willful or intentional, including a violation resulting from a clerical error.

Amended by Chapter 382, 2008 General Session

7-24-304 Civil liability.

Nothing in this chapter is intended to limit any civil liability that may exist against a title lender for:

- (1) breach of contract;
- (2) violation of federal law; or
- (3) other unlawful act.

Enacted by Chapter 236, 2003 General Session

7-24-305 Exemptions.

The following are not subject to the requirements of this chapter:

- (1) a depository institution;
- (2) a depository institution holding company; or
- (3) an institution directly or indirectly owned or controlled by one or more:
 - (a) depository institutions; or
 - (b) depository institution holding companies.

Enacted by Chapter 236, 2003 General Session