

CONSUMER CREDIT ISSUES

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Wayne A. Harper

AN ACT RELATING TO CONSUMER CREDIT; REQUIRING COORDINATION AND REPORTING ON CONSUMER EDUCATION PROGRAMS; ADDRESSING ENFORCEMENT; AND MAKING TECHNICAL CORRECTIONS.

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

AMENDS:

70C-8-102, as enacted by Chapter 159, Laws of Utah 1985

ENACTS:

70C-8-107, Utah Code Annotated 1953

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

Section 1. Section **70C-8-102** is amended to read:

70C-8-102. Powers of department -- Conformity with federal law -- Reliance on rules -- Consumer education.

(1) In addition to other powers granted by this title, the department, within the limitations provided by law, may:

(a) receive and act on complaints, take action designed to obtain voluntary compliance with this title, or commence administrative or judicial proceedings on its own initiative;

(b) counsel persons and groups on their rights and duties under this title;

(c) establish programs for the education of consumers with respect to credit practices and problems;

(d) make studies appropriate to effectuate the purposes and policies of this title and make the results available to the public;

(e) adopt, amend, and repeal rules to supplement, interpret, or carry out the provisions of this title;

(f) maintain offices within this state; and

(g) employ any necessary hearing examiners, clerks, and other employees and agents.

(2) The department may adopt rules that supersede any provisions of this title ~~[which]~~ that are or come into conflict with the Federal Credit Protection Act or its implementing Regulation Z if the department:

(a) finds such a conflict to exist; and

(b) declares that the purpose of superseding this title is to resolve that conflict.

(3) Except for refund of an excess charge, no liability is imposed under this title for an act done or omitted in conformity with the rule of the department, notwithstanding that after the act or omission the rule may be amended or repealed or be determined by judicial or other competent authority to be invalid for any reason.

(4) ~~[No]~~ A rule or any part of a rule adopted by the department under this title may not be determined by any judicial or other authority to be invalid in whole or in part unless such judicial or other authority expressly finds that the rule or part of the rule is arbitrary, capricious, and constitutes an abuse of discretion, or exceeds the authority granted to the department by this title, or is otherwise unlawful.

(5) The department shall coordinate with representatives of education, government, and the financial services industry and assist in the preparation of an initiative to develop, implement, and monitor a financial services education curriculum that is:

(a) to be made available to the public; and

(b) appropriate for use in the public schools.

(6) Beginning in 1999, the department shall report biennially by no later than November 30 to the Business, Labor, and Economic Development Interim Committee regarding:

(a) the need for consumer education programs administered by the department to promote prudent and beneficial use of credit by consumers; and

(b) department efforts to promote the education of consumers with respect to credit practices and problems, including:

(i) its efforts to coordinate, encourage, and assist public and private persons in developing and operating voluntary educational and debt counseling programs; and

(ii) its activities under Subsection (5).

Section 2. Section **70C-8-107** is enacted to read:

70C-8-107. Temporary or injunctive relief against unconscionable and fraudulent conduct.

(1) The department may bring a civil action to enjoin a person subject to this title from:

(a) making or enforcing a term of consumer credit transactions that is unconscionable;

(b) engaging in fraudulent conduct in inducing consumers to enter into a consumer credit transaction; or

(c) engaging in conduct of the type specified in Subsection (1)(a) or (b) with respect to a transaction that gives rise to or leads a person to believe will give rise to a consumer credit transaction.

(2) An action brought pursuant to this section is subject to the requirements of Utah Rules of Civil Procedure, Rule 65A.