

**CHECK CASHING AND DEFERRED DEPOSIT LENDING  
REGISTRATION ACT AMENDMENTS**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jim Nielson**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends the Check Cashing and Deferred Deposit Lending Registration Act to require additional reporting by deferred deposit lenders.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires a deferred deposit lender to report additional information as part of its annual operation statement; and
- ▶ makes technical and conforming amendments.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

**AMENDS:**

**7-23-102**, as last amended by Laws of Utah 2008, Chapter 96

**7-23-201**, as last amended by Laws of Utah 2010, Chapter 102

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



28 Section 1. Section 7-23-102 is amended to read:

29 **7-23-102. Definitions.**

30 As used in this chapter:

31 (1) "Annual percentage rate" has the same meaning as in 15 U.S.C. Sec. 1606, as  
32 implemented by regulations issued under that section.

33 [~~(1)~~] (2) "Business of cashing checks" means cashing a check for consideration.

34 [~~(2)~~] (3) "Business of deferred deposit lending" means extending a deferred deposit  
35 loan.

36 [~~(3)~~] (4) "Check" is as defined in Section 70A-3-104.

37 [~~(4)~~] (5) "Check casher" means a person that engages in the business of cashing checks.

38 [~~(5)~~] (6) "Deferred deposit lender" means a person that engages in the business of  
39 deferred deposit lending.

40 [~~(6)~~] (7) "Deferred deposit loan" means a transaction where:

41 (a) a person:

42 (i) presents to a deferred deposit lender a check written on that person's account; or

43 (ii) provides written or electronic authorization to a deferred deposit lender to effect a  
44 debit from that person's account using an electronic payment; and

45 (b) the deferred deposit lender:

46 (i) provides the person described in Subsection [~~(6)~~] (7)(a) an amount of money that is  
47 equal to the face value of the check or the amount of the debit less any fee or interest charged  
48 for the transaction; and

49 (ii) agrees not to cash the check or process the debit until a specific date.

50 [~~(7)~~] (8) (a) "Electronic payment" means an electronic method by which a person:

51 (i) accepts a payment from another person; or

52 (ii) makes a payment to another person.

53 (b) "Electronic payment" includes a payment made through:

54 (i) an automated clearing house transaction;

55 (ii) an electronic check;

56 (iii) a stored value card; or

57 (iv) an Internet transfer.

58 [~~(8)~~] (9) "Rollover" means the extension or renewal of the term of a deferred deposit

59 loan.

60 Section 2. Section **7-23-201** is amended to read:

61 **7-23-201. Registration -- Rulemaking.**

62 (1) (a) It is unlawful for a person to engage in the business of cashing checks or the  
63 business of deferred deposit lending in Utah or with a Utah resident unless the person:

64 (i) registers with the department in accordance with this chapter; and

65 (ii) maintains a valid registration.

66 (b) It is unlawful for a person to operate a mobile facility in this state to engage in the  
67 business of:

68 (i) cashing checks; or

69 (ii) deferred deposit lending.

70 (2) (a) A registration and a renewal of a registration expires on April 30 of each year  
71 unless on or before that date the person renews the registration.

72 (b) To register under this section, a person shall:

73 (i) pay an original registration fee established under Subsection 7-1-401(8); and

74 (ii) submit a registration statement containing the information described in Subsection

75 (2)(d).

76 (c) To renew a registration under this section, a person shall:

77 (i) pay the annual fee established under Subsection 7-1-401(5);

78 (ii) submit a renewal statement containing the information described in Subsection

79 (2)(d); and

80 (iii) if the person engages in the business of deferred deposit lending, submit an

81 operations statement containing the information described in Subsection (2)(e).

82 (d) A registration or renewal statement shall state:

83 (i) the name of the person;

84 (ii) the name in which the business will be transacted if different from that required in

85 Subsection (2)(d)(i);

86 (iii) the address of the person's principal business office, which may be outside this

87 state;

88 (iv) the addresses of all offices in this state at which the person conducts the business

89 of:

- 90 (A) cashing checks; or
- 91 (B) deferred deposit lending;
- 92 (v) if the person conducts the business of cashing checks or the business of deferred
- 93 deposit lending in this state but does not maintain an office in this state, a brief description of
- 94 the manner in which the business is conducted;
- 95 (vi) the name and address in this state of a designated agent upon whom service of
- 96 process may be made;
- 97 (vii) disclosure of any injunction, judgment, administrative order, or conviction of any
- 98 crime involving moral turpitude with respect to that person or any officer, director, manager,
- 99 operator, or principal of that person; and
- 100 (viii) any other information required by the rules of the department.
- 101 (e) An operations statement required for a deferred deposit lender to renew a
- 102 registration shall state for the immediately preceding calendar year:
- 103 (i) the average deferred deposit loan amount that the deferred deposit lender extended;
- 104 (ii) the average number of days a deferred deposit loan is extended by the deferred
- 105 deposit lender before the deferred deposit loan is paid in full;
- 106 (iii) of the deferred deposit loans that are paid in full 10 weeks or sooner after the day
- 107 on which the deferred deposit loan is executed, the average number of days a deferred deposit
- 108 loan is extended by the deferred deposit lender before the deferred deposit loan is paid in full;
- 109 [~~(iv) the minimum and maximum amount of interest or fees charged by the deferred~~
- 110 ~~deposit lender for a deferred deposit loan;~~]
- 111 [~~(A) of \$100; and~~
- 112 ~~(B) extended for one week;~~]
- 113 [~~(v)~~] (iv) the total number of deferred deposit loans rescinded by the deferred deposit
- 114 lender at the request of the customer pursuant to Subsection 7-23-401(3)(b);
- 115 [~~(vi)~~] (v) the percentage of deferred deposit loans extended by the deferred deposit
- 116 lender that are not paid in full by 10 weeks after the day on which the deferred deposit loan is
- 117 executed; [~~and~~]
- 118 (vi) the total dollar amount of deferred deposit loans that are not paid in full by 10
- 119 weeks after the day on which the deferred deposit loans are executed;
- 120 (vii) of the persons to whom the deferred deposit lender extended a deferred deposit

121 loan, the percentage that entered into an extended payment plan under Section 7-23-403[-];

122 (viii) the total number of individuals to whom the deferred deposit lender extended a  
123 deferred deposit loan;

124 (ix) the range of annual percentage rates charged on deferred deposit loans extended by  
125 the deferred deposit lender; and

126 (x) the average annual percentage rate charged on a deferred deposit loan extended by  
127 the deferred deposit lender.

128 (3) Information provided by a deferred deposit lender under Subsection (2)(e) is:

129 (a) confidential in accordance with Section 7-1-802; and

130 (b) not subject to Title 63G, Chapter 2, Government Records Access and Management  
131 Act.

132 (4) (a) The commissioner may impose an administrative fine determined under  
133 Subsection (4)(b) on a person if:

134 (i) the person is required to be registered under this chapter;

135 (ii) the person fails to register or renew a registration in accordance with this chapter;

136 (iii) the department notifies the person that the person is in violation of this chapter for  
137 failure to be registered; and

138 (iv) the person fails to register within 30 days after the day on which the person  
139 receives the notice described in Subsection (4)(a)(iii).

140 (b) Subject to Subsection (4)(c), the administrative fine imposed under this section is:

141 (i) \$500 if the person:

142 (A) has no office in this state at which the person conducts the business of:

143 (I) cashing checks; or

144 (II) deferred deposit lending; or

145 (B) has one office in this state at which the person conducts the business of:

146 (I) cashing checks; or

147 (II) deferred deposit lending; or

148 (ii) if the person has two or more offices in this state at which the person conducts the  
149 business of cashing checks or the business of deferred deposit lending, \$500 for each office at  
150 which the person conducts the business of:

151 (A) cashing checks; or

152 (B) deferred deposit lending.

153 (c) The commissioner may reduce or waive a fine imposed under this Subsection (4) if  
154 the person shows good cause.

155 (5) If the information in a registration, renewal, or operations statement required under  
156 Subsection (2) becomes inaccurate after filing, a person is not required to notify the department  
157 until:

158 (a) that person is required to renew the registration; or

159 (b) the department specifically requests earlier notification.

160 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
161 department may make rules consistent with this section providing for:

162 (a) the form, content, and filing of a registration and renewal statement described in  
163 Subsection (2)(d); and

164 (b) the form and filing of an operations statement described in Subsection (2)(e).

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**Legislative Review Note**  
**as of 11-2-11 3:45 PM**

**Office of Legislative Research and General Counsel**