

1                   **CONSUMER CREDIT PROTECTION AMENDMENTS**

2                                   2014 GENERAL SESSION

3                                   STATE OF UTAH

4                           **Chief Sponsor: Paul Ray**

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

6  
7 **LONG TITLE**

8 **Committee Note:**

9                   The Veterans Reintegration Task Force recommended this bill.

10                   Membership:     5 legislators   15 non-legislators

11                   Legislative Vote: 3 voting for   0 voting against     2 absent

12 **General Description:**

13                   This bill modifies Title 13, Chapter 45, Consumer Credit Protection Act.

14 **Highlighted Provisions:**

15                   This bill:

16                   ▶ defines terms;

17                   ▶ under certain circumstances, requires a consumer reporting agency to give a  
18 consumer, prior to purchase, a written disclosure that states that the credit score the  
19 consumer reporting agency provides may be different from the credit score used by  
20 a lender;

21                   ▶ requires an entity that requests a consumer's credit score, for a purpose other than  
22 the extension of credit, to provide the consumer with a written disclosure that  
23 includes:

- 24                   • the name of the consumer reporting agency that calculated the credit score;
- 25                   • the model used to generate the credit score; and
- 26                   • the consumer's credit score;

27                   ▶ prohibits a consumer reporting agency from refusing to sell a consumer's credit



28 score to a requesting entity solely because the requesting entity is required to make the  
29 disclosures described in this bill; and

- 30       ▶ provides enforcement procedures for the provisions in this bill.

31 **Money Appropriated in this Bill:**

32       None

33 **Other Special Clauses:**

34       None

35 **Utah Code Sections Affected:**

36 AMENDS:

37       **13-45-102**, as enacted by Laws of Utah 2006, Chapter 344

38 ENACTS:

39       **13-45-501**, Utah Code Annotated 1953

40       **13-45-502**, Utah Code Annotated 1953

41       **13-45-503**, Utah Code Annotated 1953

42 RENUMBERS AND AMENDS:

43       **13-45-601**, (Renumbered from 13-45-401, as enacted by Laws of Utah 2006, Chapter  
44 344)



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

47       Section 1. Section **13-45-102** is amended to read:

48       **13-45-102. Definitions.**

49       As used in this chapter:

50       (1) "Consumer" means ~~[a natural person]~~ an individual.

51       (2) "Consumer credit counseling agency" means:

52       (a) a person that is registered with the Division of Consumer Protection to provide debt  
53 management services under Title 13, Chapter 42, Uniform Debt-Management Services Act; or

54       (b) a HUD-approved housing counseling agency.

55       ~~[(2)] (3) "Consumer reporting agency" means [a person who, for fees, dues, or on a~~  
56 ~~cooperative basis, regularly engages in whole or in part in the practice of assembling or~~  
57 ~~evaluating information concerning a consumer's credit or other information for the purpose of~~  
58 ~~furnishing a credit report to another person.];~~

59 (a) a credit bureau; or

60 (b) a person that obtains and resells any information, including a credit score or credit  
61 report, produced, in whole or in part, by a credit bureau.

62 (4) "Credit bureau" means a person that, for fees, dues, or on a cooperative basis,  
63 regularly engages in the practice of assembling or evaluating information concerning a  
64 consumer's credit or other information for the purpose of furnishing a credit report or credit  
65 score to another person.

66 ~~[(3)]~~ (5) "Credit report" means a consumer report, as defined in 15 U.S.C. Sec. 1681a[;  
67 that is used or collected in whole or part for the purpose of serving as a factor in establishing a  
68 consumer's eligibility for credit for personal, family, or household purposes].

69 (6) (a) "Credit score" means a numerical value or a categorization that is:

70 (i) derived from information in a consumer report;

71 (ii) derived from a statistical tool or modeling system; and

72 (iii) developed to predict, at least in part, the likelihood of:

73 (A) future insurance claims behavior; or

74 (B) credit behavior.

75 (b) "Credit score" includes:

76 (i) a risk predictor; or

77 (ii) a risk score.

78 (7) "Depository institution" is as defined in Section [7-1-103](#).

79 (8) "Electronically signed" means executed by electronic sound, symbol, or process  
80 attached to or logically associated with a record, demonstrating the intent to sign the record.

81 (9) "Extension of credit" means the right to defer payment of debt or to incur debt and  
82 defer its payment.

83 (10) "Lender" means a person that regularly offers or makes an extension of credit to a  
84 consumer.

85 (11) "Lender credit score" means a credit score that a mortgage lender uses to  
86 underwrite or evaluate an individual's request for a mortgage loan, and that is calculated using  
87 the same algorithm used by Fannie Mae, Freddie Mac, or a comparable entity.

88 (12) "Lessor" is as defined in Section [15-8-3](#).

89 ~~[(4)]~~ (13) "Normal business hours" means Sunday through Saturday, between the hours

90 of 6:00 a.m. and 9:30 p.m., Mountain Standard or Mountain Daylight Time.

91 ~~[(5)]~~ (14) (a) "Personal information" means personally identifiable financial  
92 information:

93 (i) provided by a consumer to another person;

94 (ii) resulting from any transaction with the consumer or any service performed for the  
95 consumer; or

96 (iii) otherwise obtained by another person.

97 (b) "Personal information" does not include:

98 (i) publicly available information, as that term is defined by the regulations prescribed  
99 under 15 U.S.C. Sec. 6804; or

100 (ii) any list, description, or other grouping of consumers, and publicly available  
101 information pertaining to the consumers, that is derived without using any nonpublic personal  
102 information.

103 (c) Notwithstanding Subsection ~~[(5)]~~ (14)(b), "personal information" includes any list,  
104 description, or other grouping of consumers, and publicly available information pertaining to  
105 the consumers, that is derived using any nonpublic personal information other than publicly  
106 available information.

107 ~~[(6)]~~ (15) "Proper identification" has the same meaning as in 15 U.S.C. Sec.  
108 1681h(a)(1), and includes:

109 (a) the consumer's full name, including first, last, and middle names and any suffix;

110 (b) any name the consumer previously used;

111 (c) the consumer's current and recent full addresses, including street address, any  
112 apartment number, city, state, and ZIP code;

113 (d) the consumer's Social Security number; and

114 (e) the consumer's date of birth.

115 (16) (a) "Requesting entity" means a person that requests or obtains an individual's  
116 credit report or credit score for a purpose other than the extension of credit, including a  
117 consumer credit counseling agency, credit counselor, housing counselor, lessor, or employer.

118 (b) "Requesting entity" does not include a depository institution.

119 ~~[(7)]~~ (17) "Security freeze" means a prohibition, consistent with Section 13-45-201, on  
120 a consumer reporting agency's furnishing of a consumer's credit report to a third party intending

121 to use the credit report to determine the consumer's eligibility for credit.

122 Section 2. Section **13-45-501** is enacted to read:

123 **Part 5. Credit Score Disclosure Requirements**

124 **13-45-501. Title.**

125 This part is known as "Credit Score Disclosure Requirements."

126 Section 3. Section **13-45-502** is enacted to read:

127 **13-45-502. Educational credit score -- Required disclosure.**

128 (1) Except as provided in Subsection (2), when, for a purpose other than an extension  
129 of credit, a consumer requests the consumer's credit score from a consumer reporting agency  
130 and the consumer reporting agency provides a credit score that is not a lender credit score, the  
131 consumer reporting agency shall give the consumer a written disclosure in substantially the  
132 following form:

133 "This credit score may differ substantially from the credit score used by a lender for the  
134 approval of a residential mortgage or other loan. The Consumer Financial Protection Bureau  
135 has warned that this credit score may greatly misrepresent a lender's assessment of your  
136 creditworthiness. Based on the score actually used by a lender, you may be offered less  
137 favorable terms that are more costly to you."

138 (2) If a consumer reporting agency described in Subsection (1) is also a lender, and the  
139 consumer reporting agency provides the consumer a credit score that is not a lender credit score  
140 that the consumer reporting agency uses when deciding whether to grant an extension of credit,  
141 the consumer reporting agency shall give the consumer a written disclosure in substantially the  
142 following form:

143 "This credit score is different from the credit score we use to evaluate whether to grant  
144 an extension of credit. The Consumer Financial Protection Bureau has warned that this credit  
145 score may greatly misrepresent our or another lender's assessment of your creditworthiness.  
146 Based on the credit score that we would actually use, you may be offered less favorable terms  
147 that are more costly to you."

148 (3) A person who gives a disclosure described in Subsection (1) or (2) shall ensure that  
149 the disclosure is:

150 (a) independently displayed on a separate page;

151 (b) typed in at least 14-point font; and

152 (c) signed by the consumer, or if the credit score is obtained online, electronically  
153 signed by the consumer, before the consumer purchases the credit score.

154 (4) This section does not apply to a depository institution.

155 Section 4. Section **13-45-503** is enacted to read:

156 **13-45-503. Disclosure of credit score to consumer.**

157 (1) Except as provided in Subsection (2), within 10 days after the day on which a  
158 requesting entity receives a consumer's credit score, the requesting entity shall give the  
159 consumer a written disclosure that states:

- 160 (a) the name of the consumer reporting agency that calculated the credit score;
- 161 (b) the unique name associated with the algorithm used to generate the credit score;
- 162 and
- 163 (c) the consumer's credit score.

164 (2) A lessor shall disclose a consumer's credit score in accordance with Subsection (1)  
165 within three days after the day on which:

- 166 (a) the lessor denies the consumer's application for a lease; or
- 167 (b) the consumer and the lessor enter into a lease agreement.

168 (3) A consumer reporting agency may not refuse to sell a consumer's credit score to a  
169 requesting entity because the requesting entity is required to disclose the credit score to the  
170 consumer under Subsection (1).

171 Section 5. Section **13-45-601**, which is renumbered from Section 13-45-401 is  
172 renumbered and amended to read:

173 **Part 6. Enforcement**

174 ~~**[13-45-401].**~~ **13-45-601. Enforcement.**

175 (1) The attorney general may enforce this chapter's provisions.

176 (2) A person ~~[who]~~ that violates ~~[this chapter's provisions]~~ a provision from Section  
177 13-45-201, 13-45-202, 13-45-203, 13-45-204, 13-45-205, or 13-45-301 is subject to a civil fine  
178 of:

- 179 (a) no greater than \$2,500 for a violation or series of violations concerning a specific  
180 consumer; and
- 181 (b) no greater than \$100,000 in the aggregate for related violations concerning more  
182 than one consumer.

183           (3) A person that violates Section 13-45-502 or 13-45-503 is subject to a civil fine of:

184           (a) no less than \$1,000 per violation; and

185           (b) no greater than \$1,000,000 in the aggregate for related violations.

186           ~~(3)~~ (4) In addition to the penalties provided in [Subsection] Subsections (2) and (3),

187 the attorney general may seek injunctive relief to prevent future violations of this chapter in:

188           (a) the district court located in Salt Lake City; or

189           (b) the district court for the district in which resides a consumer who is the subject of a  
190 credit report on which a violation occurs.

---

---

**Legislative Review Note**

as of 8-19-13 7:14 AM

**Office of Legislative Research and General Counsel**