

**Representative Paul Ray** proposes the following substitute bill:

**CONSUMER CREDIT PROTECTION AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Paul Ray**

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

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ under certain circumstances, requires a consumer reporting agency to give a consumer, prior to purchase, a written disclosure that states that the credit score the consumer reporting agency provides may be different from the credit score used by a lender;
- ▶ provides that a consumer reporting agency may not prohibit a requesting entity who purchases a consumer's credit score from disclosing any of the following to the consumer:
  - the name of the consumer reporting agency that calculated the consumer's credit score;
  - the unique name associated with the algorithm used to generate the consumer's credit score; or
  - the consumer's credit score;
- ▶ prohibits a consumer reporting agency from refusing to sell a consumer's credit



26 score to a requesting entity solely because the requesting entity may make the disclosures  
27 described in this bill; and

28       ▶ provides enforcement procedures for the provisions in this bill.

29 **Money Appropriated in this Bill:**

30       None

31 **Other Special Clauses:**

32       None

33 **Utah Code Sections Affected:**

34 AMENDS:

35       **13-45-102**, as enacted by Laws of Utah 2006, Chapter 344

36 ENACTS:

37       **13-45-501**, Utah Code Annotated 1953

38       **13-45-502**, Utah Code Annotated 1953

39       **13-45-503**, Utah Code Annotated 1953

40 RENUMBERS AND AMENDS:

41       **13-45-601**, (Renumbered from 13-45-401, as enacted by Laws of Utah 2006, Chapter  
42 344)



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

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

46       **13-45-102. Definitions.**

47       As used in this chapter:

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

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

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

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

53       ~~[(2)] (3) "Consumer reporting agency" means [a person who, for fees, dues, or on a~~  
54 ~~cooperative basis, regularly engages in whole or in part in the practice of assembling or~~  
55 ~~evaluating information concerning a consumer's credit or other information for the purpose of~~  
56 ~~furnishing a credit report to another person.];~~

57 (a) a credit bureau; or

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

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

64 ~~[(3)]~~ (5) "Credit report" means a consumer report, as defined in 15 U.S.C. Sec. 1681a[;  
65 that is used or collected in whole or part for the purpose of serving as a factor in establishing a  
66 consumer's eligibility for credit for personal, family, or household purposes].

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

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

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

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

71 (A) future insurance claims behavior; or

72 (B) credit behavior.

73 (b) "Credit score" includes:

74 (i) a risk predictor; or

75 (ii) a risk score.

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

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

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

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

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

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

87 ~~[(4)]~~ (13) "Normal business hours" means Sunday through Saturday, between the hours

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

89 ~~(5)~~ (14) (a) "Personal information" means personally identifiable financial  
90 information:

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

92 (ii) resulting from any transaction with the consumer or any service performed for the  
93 consumer; or

94 (iii) otherwise obtained by another person.

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

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

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

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

105 ~~(6)~~ (15) "Proper identification" has the same meaning as in 15 U.S.C. Sec.  
106 1681h(a)(1), and includes:

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

108 (b) any name the consumer previously used;

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

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

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

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

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

117 ~~(7)~~ (17) "Security freeze" means a prohibition, consistent with Section 13-45-201, on  
118 a consumer reporting agency's furnishing of a consumer's credit report to a third party intending

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

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

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

122 **13-45-501. Title.**

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

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

125 **13-45-502. Educational credit score -- Required disclosure.**

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

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

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

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

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

148 (a) independently displayed on a separate page;

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

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

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

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

154 **13-45-503. Disclosure of credit score and other information to consumer.**

155 (1) A consumer reporting agency may not prohibit a requesting entity who purchases a  
156 consumer's credit score from disclosing any of the following to the consumer:

157 (a) the name of the consumer reporting agency that calculated the consumer's credit  
158 score;

159 (b) the unique name associated with the algorithm used to generate the consumer's  
160 credit score; or

161 (c) the consumer's credit score.

162 (2) A consumer reporting agency may not refuse to sell a consumer's credit score to a  
163 requesting entity because the requesting entity may make the disclosures described in  
164 Subsection (1).

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

167 **Part 6. Enforcement**

168 ~~[13-45-401].~~ **13-45-601. Enforcement.**

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

170 (2) A person ~~[who]~~ that violates ~~[this chapter's provisions]~~ a provision from Section  
171 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  
172 of:

173 (a) no greater than \$2,500 for a violation or series of violations concerning a specific  
174 consumer; and

175 (b) no greater than \$100,000 in the aggregate for related violations concerning more  
176 than one consumer.

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

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

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

180 ~~[(3)]~~ (4) In addition to the penalties provided in ~~[Subsection]~~ Subsections (2) and (3),

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

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

183 (b) the district court for the district in which resides a consumer who is the subject of a

184 credit report on which a violation occurs.