

Deferred Deposit Lending Modifications

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Pitcher

House Sponsor:

LONG TITLE**General Description:**

This bill modifies provisions related to deferred deposit, or payday, lending.

Highlighted Provisions:

This bill:

▸ ~~§→ [extends the time period during which a person may rescind a deferred deposit loan;]~~ ←§

▸ requires a deferred deposit lender to provide a notice of default in the language in which the deferred deposit loan transaction occurs;

▸ requires a deferred deposit lender to have a notice of default available in English upon request for a person who receives a notice of default in another language; and

▸ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

7-23-401, as last amended by Laws of Utah 2023, Chapter 401

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

Section 1. Section **7-23-401** is amended to read:

7-23-401 . Operational requirements for deferred deposit loans.

(1) If a deferred deposit lender extends a deferred deposit loan, the deferred deposit lender shall:

(a) post in a conspicuous location on [its] the deferred deposit lender's premises that can be viewed by a person seeking a deferred deposit loan:

(i) a complete schedule of any interest or fees charged for a deferred deposit loan that

- 30 states the interest and fees using dollar amounts;
- 31 (ii) a number the person [ean] may call to make a complaint to the department
- 32 regarding the deferred deposit loan; and
- 33 (iii) a list of states where the deferred deposit lender is registered or authorized to
- 34 offer deferred deposit loans through the Internet or other electronic means;
- 35 (b) enter into a written contract for the deferred deposit loan;
- 36 (c) conspicuously disclose in the written contract:
- 37 (i) that under Subsection (3)(a), a person receiving a deferred deposit loan may make
- 38 a partial payment in increments of at least \$5 on the principal owed on the
- 39 deferred deposit loan without incurring additional charges above the charges
- 40 provided in the written contract;
- 41 (ii) that under Subsection (3)(b), a person receiving a deferred deposit loan may
- 42 rescind the deferred deposit loan on or before 5 p.m. of the ~~§~~ → ~~[[]next[]]~~
- 42a third] ← ~~§~~ business
- 43 day after the day on which the deferred deposit loan transaction occurs without
- 44 incurring any charges;
- 45 (iii) that under Subsection (4)(b), ~~[the deferred deposit loan may not be rolled over]~~ a
- 46 deferred deposit lender may not roll over a deferred deposit loan without the
- 47 person receiving the deferred deposit loan requesting the rollover of the deferred
- 48 deposit loan;
- 49 (iv) that under Subsection (4)(c), ~~[the deferred deposit loan may not be rolled over]~~ a
- 50 deferred deposit lender may not roll over a deferred deposit loan if the rollover
- 51 requires the person to pay the amount owed by the person under the deferred
- 52 deposit loan in whole or in part more than 10 [-]weeks after the day on which the
- 53 deferred deposit loan is executed; and
- 54 (v)(A) the name and address of a designated agent the deferred deposit lender is
- 55 required to ~~[be provided]~~ provide the department under Subsection
- 56 7-23-201(2)(d)(vi); and
- 57 (B) a statement that ~~[service of process may be made to]~~ the person may serve
- 58 process on the designated agent;
- 59 (d) provide the person seeking the deferred deposit loan:
- 60 (i) a copy of the written contract described in Subsection (1)(c); and
- 61 (ii) written notice that the person seeking the deferred deposit loan is eligible to enter
- 62 into an extended payment plan described in Section 7-23-403;

- (e) orally review with the person seeking the deferred deposit loan the terms of the deferred deposit loan including:
- (i) the amount of any interest rate or fee;
 - (ii) the date on which the full amount of the deferred deposit loan is due;
 - (iii) that under Subsection (3)(a), a person receiving a deferred deposit loan may make a partial payment in increments of at least \$5 on the principal owed on the deferred deposit loan without incurring additional charges above the charges provided in the written contract;
 - (iv) that under Subsection (3)(b), a person receiving a deferred deposit loan may rescind the deferred deposit loan on or before 5 p.m. of the ~~the~~ third business day after the day on which the deferred deposit loan transaction occurs without incurring any charges;
 - (v) that under Subsection (4)(b), ~~[the deferred deposit loan may not be rolled over]~~ a deferred deposit lender may not roll over the deferred deposit loan without the person receiving the deferred deposit loan requesting the rollover of the deferred deposit loan; and
 - (vi) that under Subsection (4)(c), ~~[the deferred deposit loan may not be rolled over]~~ a deferred deposit lender may not roll over the deferred deposit loan if the rollover requires the person to pay the amount owed by the person under the deferred deposit loan in whole or in part more than 10 weeks after the day on which the deferred deposit loan is executed;
- (f) comply with the following as in effect on the date the deferred deposit lender extends the deferred deposit loan~~[-is extended]~~:
- (i) Truth in Lending Act, 15 U.S.C. Sec. 1601 et seq., and ~~[its]~~ the act's implementing federal regulations;
 - (ii) Equal Credit Opportunity Act, 15 U.S.C. Sec. 1691, and ~~[its]~~ the act's 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]~~ the act's implementing regulations; and
 - (iv) Title 70C, Utah Consumer Credit Code;
- (g) in accordance with Subsection (6), make an inquiry to determine whether a person attempting to receive a deferred deposit loan has the ability to repay the deferred deposit loan in the ordinary course, which may include rollovers or extended

96 payment plans as allowed under this chapter;

- 97 (h) in accordance with Subsection (7), receive a signed acknowledgment from a person
 98 attempting to receive a deferred deposit loan that the person has the ability to repay
 99 the deferred deposit loan, which may include rollovers or extended payment plans as
 100 allowed by this chapter; and
 101 (i) report the original loan amount, payment in full, or default of a deferred deposit loan
 102 to a consumer reporting agency, as defined in 15 U.S.C. Sec. 1681a, in accordance
 103 with procedures established by the consumer reporting agency.

104 (2) If a deferred deposit lender extends a deferred deposit loan through the Internet or other
 105 electronic means, the deferred deposit lender shall provide the information described in
 106 Subsection (1)(a) to the person receiving the deferred deposit loan:

107 (a) in a conspicuous manner; and

108 (b) ~~[prior to]~~ before the person ~~[entering]~~ enters into the deferred deposit loan.

109 (3) A deferred deposit lender that engages in a deferred deposit loan shall permit a person
 110 receiving a deferred deposit loan to:

111 (a) make partial payments in increments of at least \$5 on the principal owed on the
 112 deferred deposit loan at any time prior to maturity without incurring additional
 113 charges above the charges provided in the written contract; and

114 (b) rescind the deferred deposit loan without incurring any charges by returning the
 115 deferred deposit loan amount to the deferred deposit lender on or before 5 p.m. the ~~§~~ → ~~[F]~~
 116 **next**~~[third]~~ **←§** business day ~~[following]~~ after the day on which the
 116a deferred deposit loan
 117 transaction occurs.

118 (4) A deferred deposit lender that engages in a deferred deposit loan may not:

119 (a) collect additional interest on a deferred deposit loan with an outstanding principal
 120 balance 10 [-]weeks after the day on which the deferred deposit loan is executed;

121 (b) roll over a deferred deposit loan without the person receiving the deferred deposit
 122 loan requesting the rollover of the deferred deposit loan;

123 (c) roll over a deferred deposit loan if the rollover requires a person to pay the amount
 124 owed by the person under a deferred deposit loan in whole or in part more than 10 [-]
 125 weeks from the day on which the deferred deposit loan is first executed;

126 (d) extend a new deferred deposit loan to a person on the same business day that the
 127 person makes a payment on another deferred deposit loan if:

128 (i) the payment results in the principal of that deferred deposit loan being paid in full;

- 129 and
- 130 (ii) the combined terms of the original deferred deposit loan and the new deferred
- 131 deposit loan total more than 10 weeks of consecutive interest;
- 132 (e) avoid the limitations of Subsections (4)(a) and (4)(c) by extending a new deferred
- 133 deposit loan whose proceeds are used to satisfy or refinance any portion of an
- 134 existing deferred deposit loan;
- 135 (f) threaten to use or use the criminal process in any state to collect on the deferred
- 136 deposit loan;
- 137 (g) in connection with the collection of money owed on a deferred deposit loan,
- 138 communicate with a person [~~who~~] that owes money on a deferred deposit loan at the
- 139 person's place of employment if the person or the person's employer communicates,
- 140 orally or in writing, to the deferred deposit lender that the person's employer prohibits
- 141 the person from receiving these communications;
- 142 (h) modify by contract the venue provisions in Title 78B, Chapter 3a, Venue for Civil
- 143 Actions; or
- 144 (i) avoid the requirements of Subsection 7-23-403(1)(c) by extending an interest-bearing
- 145 loan within seven calendar days before the day on which the 10-week period ends.
- 146 (5) Notwithstanding Subsections (4)(a) and (f), a deferred deposit lender that is the holder
- 147 of a check used to obtain a deferred deposit loan that is dishonored may use the remedies
- 148 and notice procedures provided in Chapter 15, Dishonored Instruments, except that the
- 149 issuer, as defined in Section 7-15-1, of the check may not be:
- 150 (a) asked by the holder to pay the amount described in Subsection 7-15-1(6)(a)(iii) as a
- 151 condition of the holder not filing a civil action; or
- 152 (b) held liable for the damages described in Subsection 7-15-1(7)(b)(vi).
- 153 (6)(a) The inquiry required by Subsection (1)(g) applies solely to the initial period of a
- 154 deferred deposit loan transaction with a person and does not apply to any rollover or
- 155 extended payment plan of a deferred deposit loan.
- 156 (b) Subject to Subsection (6)(c), a [-]deferred deposit lender is in compliance with
- 157 Subsection (1)(g) if the deferred deposit lender, at the time of the initial period of the
- 158 deferred deposit loan transaction:
- 159 (i) obtains one of the following regarding the person seeking the deferred deposit
- 160 loan:
- 161 (A) a consumer report, as defined in 15 U.S.C. Sec. 1681a, from a consumer
- 162 reporting agency, as defined in 15 U.S.C. Sec. 1681a; or

- 163 (B) written proof or verification of income from the person seeking the deferred
164 deposit loan; or
- 165 (ii) relies on the prior repayment history with the deferred deposit lender from the
166 records of the deferred deposit lender.
- 167 (c) If a person seeking a deferred deposit loan has not previously received a deferred
168 deposit loan from ~~[that]~~ the deferred deposit lender, to be in compliance with
169 Subsection (1)(g), the deferred deposit lender, at the time of the initial period of the
170 deferred deposit loan transaction, shall obtain a consumer report, as defined in 15
171 U.S.C. Sec. 1681a, from a consumer reporting agency, as defined in 15 U.S.C. Sec.
172 1681a.
- 173 (7) A deferred deposit lender is in compliance with Subsection (1)(h) if the deferred deposit
174 lender obtains from the person seeking the deferred deposit loan a signed
175 acknowledgment that is in 14-point bold font, that the person seeking the deferred
176 deposit loan has:
- 177 (a) reviewed the payment terms of the deferred deposit loan agreement;
- 178 (b) received a disclosure that ~~[a deferred deposit loan may not be rolled over]~~ the
179 deferred deposit lender may not roll over a deferred deposit loan if the rollover
180 requires the person to pay the amount owed by the person under the deferred deposit
181 loan in whole or in part more than 10 weeks after the day on which the deferred
182 deposit loan is first executed;
- 183 (c) received a disclosure explaining the extended payment plan options; and
- 184 (d) acknowledged the ability to repay the deferred deposit loan in the ordinary course,
185 which may include rollovers, or extended payment plans as allowed under this
186 chapter.
- 187 (8)(a) Before initiating a civil action against a person who owes money on a deferred
188 deposit loan, a deferred deposit lender shall provide the person at least 30 days notice
189 of default, describing that:
- 190 (i) the person must remedy the default; and
- 191 (ii) the deferred deposit lender may initiate a civil action against the person if the
192 person fails to cure the default within the 30-day period ~~[-]~~ or through an extended
193 payment plan meeting the requirements of Section 7-23-403.
- 194 (b) A deferred deposit lender may provide the notice required under this Subsection (8):
- 195 (i) by sending written notice to the address ~~[provided by]~~ the person provided to the
196 deferred deposit lender;

- 197 (ii) by sending an electronic transmission to a person if the person provided
198 electronic contact information [is provided] to the deferred deposit lender; or
199 (iii) ~~[pursuant to]~~ in accordance with the Utah Rules of Civil Procedure.
- 200 (c) A notice under this Subsection (8), in addition to complying with Subsection (8)(a),
201 shall:
- 202 (i) be ~~[in English, if the initial transaction is conducted in English]~~ in the language in
203 which the deferred deposit lender and the person who owes money conducted the
204 initial transaction, with a version in English available upon request if the notice is
205 not in English;
- 206 (ii) state the date by which the person ~~[must]~~ shall act to enter into an extended
207 payment plan;
- 208 (iii) explain the procedures the person ~~[must]~~ shall follow to enter into an extended
209 payment plan;
- 210 (iv) subject to Subsection 7-23-403(7), if the deferred deposit lender requires the
211 person to make an initial payment to enter into an extended payment plan:
212 (A) explain the requirement; and
213 (B) state the amount of the initial payment and the date the initial payment shall
214 be made;
- 215 (v) state that the person has the opportunity to enter into an extended payment plan
216 for a time period meeting the requirements of Subsection 7-23-403(2)(b); and
217 (vi) include the following amounts:
- 218 (A) the remaining balance on the original deferred deposit loan;
219 (B) the total payments made on the deferred deposit loan;
220 (C) any charges added to the deferred deposit loan amount allowed pursuant to
221 this chapter; and
222 (D) the total amount due if the person enters into an extended payment plan.

223 **Section 2. Effective Date.**

224 This bill takes effect on May 7, 2025.