

Part 7 Authorization Required to Conduct Business

7-1-701 Representing and transacting business as financial institution restricted -- Restricted names -- Penalty.

- (1) As used in this section, "transact business" includes:
 - (a) advertising;
 - (b) representing oneself in any manner as being engaged in transacting business;
 - (c) registering an assumed name under which to transact business; or
 - (d) using an assumed business name, sign, letterhead, business card, promotion, or other indication that one is transacting business.
- (2) Unless authorized by the department or an agency of the federal government to do so, it is unlawful for a person to:
 - (a) transact business as a:
 - (i) bank;
 - (ii) savings and loan association;
 - (iii) savings bank;
 - (iv) industrial bank;
 - (v) credit union;
 - (vi) trust company; or
 - (vii) other financial or depository institution; or
 - (b) engage in any other activity subject to the jurisdiction of the department.
- (3)
 - (a) Except as provided in Subsections (3)(b) through (d), only the following may transact business in this state under a name that includes "bank," "banker," "banking," "banque," "banc," "banco," "bancorp," "bancorporation," a derivative of these words, or another word or combination of words reasonably identifying the business of a bank:
 - (i) a national bank;
 - (ii) a bank authorized to do business under Chapter 3, Banks;
 - (iii) a bank holding company; or
 - (iv) an industrial bank.
 - (b) A person authorized to operate in this state as a credit card bank, as described in Section 7-3-3:
 - (i) may transact business under the name "credit card bank"; and
 - (ii) may not transact business under the name of "bank" unless it is immediately preceded by "credit card."
 - (c) A nonbank subsidiary of a bank holding company may transact business under a name restricted in Subsection (3)(a) if the name:
 - (i) is also part of the name of its parent holding company; or
 - (ii) is used for a group of subsidiaries of the parent holding company.
 - (d) A bona fide trade association of authorized banks recognized by the commissioner may transact its affairs in this state under a name restricted under Subsection (3)(a) if it does not operate and does not hold itself out to the public as operating a depository or financial institution.
- (4)
 - (a) Except as provided in Subsection (4)(b), only the following may transact business in this state under a name that includes "savings association," "savings and loan association," "building

and loan association," "building association," a derivative of these words, or another word or combination of words reasonably identifying the business of a savings and loan association:

- (i) a federal savings and loan association; or
 - (ii) a federal savings bank.
- (b) A national bank may transact business under a name restricted in Subsection (4)(a) if the restricted words are part of the bank's corporate name.
- (5) Only the following may transact business under the name "savings bank":
- (a) a depository institution listed in Subsection (3)(a);
 - (b) a depository institution listed in Subsection (4)(a); or
 - (c) a depository institution authorized under the law of another state to operate in this state as a savings bank.
- (6)
- (a) Only an industrial loan company authorized to do business under Chapter 8, Industrial Banks, to the extent permitted by Section 7-8-21, may transact business in this state under a name that includes "industrial loan company," "ILC," or another word, combination of words, or abbreviation reasonably identifying the business of an industrial loan company.
 - (b) Only an industrial bank authorized to do business under Chapter 8, Industrial Banks, may transact business in this state under a name that includes "industrial bank," "thrift," or another word, combination of words, or abbreviation reasonably identifying the business of an industrial bank.
- (7)
- (a) Except as provided in Subsection (7)(b), only a credit union authorized to do business under the laws of the United States or Chapter 9, Utah Credit Union Act, may transact business in this state under a name that includes "credit union" or another word or combination of words reasonably identifying the business of a credit union.
 - (b) The restriction in Subsection (7)(a) does not apply to a bona fide trade association of authorized credit unions recognized by the commissioner, a credit union chapter, or another association affiliated with a bona fide trade association of authorized credit unions recognized by the commissioner that restricts its services primarily to credit unions.
- (8)
- (a) Except as provided in Subsection (8)(b), only a person granted trust powers under Chapter 5, Trust Business, may transact business in this state under a name that includes "trust," "trustee," "trust company," or another word or combination of words reasonably identifying the business of a trust company.
 - (b) A business entity organized as a business trust, as defined in Section 7-5-1, may use "business trust" in its name if it does not hold itself out as being a trust company.
- (9) The restrictions of Subsections (3) through (8) do not apply to:
- (a) the name under which an out-of-state depository institution operates a loan production office in this state, if the commissioner approves the name as not being reasonably likely to mislead the public;
 - (b) the name under which a service organization of a financial institution transacts business, if the commissioner approves the name as not being reasonably likely to mislead the public;
 - (c) the name under which a subsidiary of a depository or financial institution transacts business, if the commissioner approves the name as not being reasonably likely to mislead the public; or
 - (d) a trade association or other nonprofit organization composed of members of a particular class of financial institutions using words applicable to that class.
- (10)

- (a) Upon written request, the commissioner may grant an exemption to this section if the commissioner finds that the use of an otherwise restricted name or word is not reasonably likely to cause confusion or lead the public to believe that the person requesting the exemption is a depository or financial institution or is conducting a business subject to the jurisdiction of the department.
 - (b) In granting an exemption under Subsection (10)(a), the commissioner may restrict or condition the use of the name or word or the activities of the person or business as the commissioner considers necessary to protect the public.
- (11)
- (a) A person and a principal and officer of a business entity violating this section is guilty of a class A misdemeanor. Each day of violation constitutes a separate offense.
 - (b) In addition to a criminal penalty imposed under Subsection (11)(a), the commissioner may issue a cease and desist order against a person violating this section. The commissioner may impose a civil penalty of up to \$500 for each day the person fails to comply with the cease and desist order.

Amended by Chapter 97, 2014 General Session

7-1-702 Interstate acquisition, merger, and branching.

- (1) A Utah depository institution or its holding company may acquire control of, acquire all or substantially all the assets of, or merge with:
 - (a) an out-of-state depository institution; or
 - (b) a holding company of an out-of-state depository institution.
- (2) An out-of-state depository institution or its holding company may acquire control of, acquire all or substantially all the assets of, or merge with:
 - (a) a Utah depository institution; or
 - (b) a holding company of a Utah depository institution.
- (3) A Utah depository institution may acquire, through merger or otherwise, a branch of a depository institution in another state without acquiring:
 - (a) the depository institution in the other state; or
 - (b) the charter of the depository institution described in Subsection (3)(a).
- (4) An out-of-state depository institution may acquire, through merger or otherwise, a branch of a depository institution in Utah without acquiring:
 - (a) the Utah depository institution; or
 - (b) the charter of the Utah depository institution.
- (5)
 - (a) A Utah depository institution may establish a de novo branch in any state that allows de novo interstate branching as described in 12 U.S.C. Secs. 36(g) and 1828(d)(4), as amended.
 - (b) Except as provided in Subsection (5)(c), de novo interstate branching in Utah is prohibited.
 - (c) An out-of-state depository institution may establish a de novo branch in Utah if the home state of that out-of-state depository institution permits a Utah state chartered depository institution to establish and maintain a de novo branch in that home state under substantially the same terms and conditions as that out-of-state depository institution establishes its de novo branch in Utah.
- (6)
 - (a) Any of the following may do anything described in Subsection (6)(b):
 - (i) a Utah depository institution or holding company that acquires an out-of-state depository institution;

- (ii) a Utah depository institution that is the resulting depository institution after merging with an out-of-state depository institution; or
 - (iii) a Utah depository institution that otherwise establishes or acquires a branch in a host state.
- (b) A depository institution or holding company described in Subsection (6)(a) may do any of the following in accordance with applicable state and federal law, including the law of the host state:
 - (i) continue to operate the out-of-state depository institution or branch;
 - (ii) convert any existing main office or branch in the host state into a branch of the Utah depository institution;
 - (iii) establish or acquire additional branches of the Utah depository institution in any state where the out-of-state depository institution could have done so if the out-of-state depository institution had not been acquired or merged; and
 - (iv) exercise any power and engage in any activity in a host state to the same extent as a depository institution of the same class whose home state is that state.
- (7)
 - (a) Any of the following may do anything described in Subsection (7)(b):
 - (i) an out-of-state depository institution or holding company that acquires a Utah depository institution;
 - (ii) an out-of-state depository institution that is the resulting depository institution after merging with a Utah depository institution; or
 - (iii) an out-of-state depository institution that otherwise establishes or acquires a branch in Utah.
 - (b) A depository institution or holding company described in Subsection (7)(a) may do any of the following in accordance with applicable state and federal law, including the law of this state:
 - (i) continue to operate the Utah depository institution or branch;
 - (ii) convert any existing main office or branch in Utah into a branch of the out-of-state depository institution;
 - (iii) establish or acquire additional branches of the out-of-state depository institution in any state where the Utah depository institution could have done so if the Utah depository institution had not been acquired or merged; and
 - (iv) exercise any power and engage in any activity in this state to the same extent as a depository institution of the same class whose home state is Utah.
- (8)
 - (a) A Utah branch of an out-of-state depository institution shall comply with:
 - (i) the law of the institution's home state; or
 - (ii) the federal law in the case of a federally chartered institution.
 - (b) If the laws of this state as a host state conflict with the laws of another state as a home state, the laws of the home state prevail except as provided in this section.
 - (c) The commissioner may order that Utah law prevails over home state law if the application of Utah law is necessary to:
 - (i) preserve the safe and sound operation of the Utah branch;
 - (ii) prevent significant competitive disadvantage to Utah depository institutions in local financial markets; or
 - (iii) otherwise protect the citizens of this state.
 - (d) The laws of this state regarding community reinvestment, consumer protection, fair lending, and intrastate branching apply to a Utah branch of an out-of-state depository institution to the same extent as those laws apply to a Utah branch of a depository institution chartered by this state.

- (e) An out-of-state depository institution authorized to operate a branch in Utah may underwrite or sell insurance, engage in the direct marketing of securities, or engage in the brokerage of real estate only to the extent permissible for a Utah depository institution of the same class.
- (9) Subsection (8) does not affect the jurisdiction or authority of the commissioner to:
 - (a) examine, supervise, and regulate an out-of-state depository institution operating or seeking to operate a branch in this state; or
 - (b) take any action or issue any order with regard to a branch described in Subsection (9)(a).
- (10) The acquisition of a charter entitles the acquiring institution to engage in any activity the acquired institution could have engaged in if the acquired institution had not been acquired, so long as the acquiring institution does not convert the acquired institution into, or operate it as, an institution of a different class.
- (11)
 - (a) The activities authorized in this section are subject to:
 - (i) the limitations for mergers and acquisitions set forth in Sections 7-1-703 and 7-1-705; and
 - (ii) the limitations for branching set forth in Section 7-1-708.
 - (b) An institution shall file all required applications and receive all appropriate approvals before engaging in any of the activities authorized in this section.
- (12) An out-of-state depository institution that operates a branch in this state shall:
 - (a) maintain a certificate of authority to transact business in this state;
 - (b) comply with all applicable corporate filing requirements under Title 16, Chapter 10a, Utah Revised Business Corporation Act, to the same extent as any nondepository corporation transacting business in this state; and
 - (c) provide written notification to the department of the out-of-state depository certificate of authority to transact business in this state.

Amended by Chapter 211, 2001 General Session

7-1-703 Restrictions on acquisition of institutions and holding companies -- Enforcement.

- (1) Unless the commissioner gives prior written approval under Section 7-1-705, a person may not:
 - (a) acquire, directly or indirectly, control of a depository institution or depository institution holding company subject to the jurisdiction of the department;
 - (b) vote the stock of a depository institution or depository institution holding company subject to the jurisdiction of the department acquired in violation of Section 7-1-705;
 - (c) acquire all or a material portion of the assets of a depository institution or a depository institution holding company subject to the jurisdiction of the department;
 - (d) assume all or a material portion of the deposit liabilities of a depository institution subject to the jurisdiction of the department;
 - (e) take any action that causes a depository institution to become a subsidiary of a depository institution holding company subject to the jurisdiction of the department;
 - (f) take any action that causes a person other than an individual to become a depository institution holding company subject to the jurisdiction of the department;
 - (g) acquire, directly or indirectly, the voting or nonvoting securities of a depository institution or a depository institution holding company subject to the jurisdiction of the department if the acquisition would result in the person obtaining more than 20% of the authorized voting securities of the institution if the nonvoting securities were converted into voting securities; or
 - (h) merge or consolidate with a depository institution or depository institution holding company subject to the jurisdiction of the department.
- (2)

- (a) A person who willfully violates this section or a rule or order issued by the department under this section is subject to a civil penalty of not more than \$1,000 per day during which the violation continues.
 - (b) The commissioner may assess the civil penalty after giving notice and opportunity for hearing.
 - (c) The commissioner shall collect the civil penalty by bringing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.
 - (d) An applicant for approval of an acquisition is considered to have consented to the jurisdiction and venue of the court by filing an application for approval.
- (3) The commissioner may secure injunctive relief to prevent a change in control or impending violation of this section.
- (4) The commissioner may lengthen or shorten any time period specified in Section 7-1-705 if the commissioner finds it necessary to protect the public interest.
- (5) The commissioner may exempt a class of financial institutions from this section by rule if the commissioner finds the exception to be in the public interest.
- (6) The prior approval of the commissioner under Section 7-1-705 is not required for the acquisition by a person other than an individual of voting securities or assets of a depository institution or a depository institution holding company that are acquired by foreclosure or otherwise in the ordinary course of collecting a debt previously contracted in good faith if these voting securities or assets are divested within two years of acquisition. The commissioner may, upon application, extend the two-year period of divestiture for up to three additional one-year periods if, in the commissioner's judgment, the extension would not be detrimental to the public interest. The commissioner may adopt rules to implement the intent of this Subsection (6).
- (7)
- (a) An out-of-state depository institution without a branch in Utah, or an out-of-state depository institution holding company without a depository institution in Utah, may acquire:
 - (i) a Utah depository institution only if it has been in existence for at least five years; or
 - (ii) a Utah branch of a depository institution only if the branch has been in existence for at least five years.
 - (b) For purposes of Subsection (7)(a), a depository institution chartered solely for the purpose of acquiring another depository institution is considered to have been in existence for the same period as the depository institution to be acquired, so long as it does not open for business at any time before the acquisition.
 - (c) The commissioner may waive the restriction in Subsection (7)(a) in the case of a depository institution that is subject to, or is in danger of becoming subject to, supervisory action under Chapter 2, Possession of Depository Institution by Commissioner, or Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, or, if applicable, the equivalent provisions of federal law or the law of the institution's home state.
 - (d) The restriction in Subsection (7)(a) does not apply to an acquisition of, or merger transaction between, affiliate depository institutions.

Amended by Chapter 401, 2023 General Session

7-1-704 Authorization required to engage in business -- Exemptions -- Procedure.

- (1)
- (a) An institution subject to the jurisdiction of the department may maintain an office in this state or engage in the activities of a financial institution in this state only if it is authorized to do so by the department.
 - (b) This Subsection (1) does not apply to:

- (i) any person who is lawfully engaging in the activities of a financial institution in this state on July 1, 1981, unless the institution was not subject to the jurisdiction of the department before that date;
 - (ii) an application to establish a branch or additional office; or
 - (iii) the establishment of a service corporation or service organization.
- (2) An applicant for authorization to become an institution subject to the jurisdiction of the department shall pay to the department the appropriate filing fee, as provided in Section 7-1-401, and shall file with the commissioner:
 - (a) its undertaking to pay all expenses incurred in conducting any administrative proceedings forming part of the department's consideration of the application;
 - (b) its proposed articles of incorporation and by-laws;
 - (c) an application in a form prescribed by the commissioner that includes all information the commissioner requires about the source of the proposed original capital and about the identity, personal history, business background and experience, financial condition, and participation in any litigation or administrative proceeding of the organizers, the proposed members of the board of directors, and the principal officers; and
 - (d) any other information the commissioner requires.
- (3) In addition to the requirements of Title 63G, Chapter 4, Administrative Procedures Act, the commissioner shall, at the expense of the applicant:
 - (a)
 - (i) give notice of the application by publication in three successive issues of a newspaper of general circulation in the county where the principal place of business is to be established; and
 - (ii) give notice of the application by publication as required in Section 45-1-101; and
 - (b) give notice of the application to other institutions subject to the jurisdiction of the department in a manner and to an extent the commissioner considers appropriate;
 - (c) cause the appropriate supervisor to make a careful investigation and examination of the following:
 - (i) the character, reputation, and financial standing and ability of the organizers;
 - (ii) the character, financial responsibility, experience, and business qualifications of those proposed as officers;
 - (iii) the character and standing in the community of those proposed as directors, principal stockholders, or owners;
 - (iv) the need in the service area where the institution would be located, giving particular consideration to the adequacy of existing financial facilities and the effect the proposed institution would have on existing institutions in the area;
 - (v) the ability of the proposed service area to support the proposed institution, including the extent and nature of existing competition, the economic history and future prospects of the community, and the opportunity for profitable employment of financial institution funds; and
 - (vi) other facts and circumstances bearing on the proposed institution that the supervisor considers relevant.
- (4)
 - (a) The supervisor shall submit findings and recommendations in writing to the commissioner.
 - (b) The application, any additional information furnished by the applicant, and the findings and recommendations of the supervisor may be inspected by any person at the department's office, except those portions of the application or report the commissioner declares to be confidential, pursuant to the applicant's request, in order to prevent a clearly unwarranted invasion of privacy.

- (5)
 - (a) If a hearing is held, the applicant shall publish notice of the hearing at the applicant's expense:
 - (i) in a newspaper of general circulation within the county where the proposed institution is to be located at least once a week for three successive weeks before the date of hearing; and
 - (ii) as required in Section 45-1-101 for three weeks before the date of the hearing.
 - (b) The notice shall include the date, time, and place of the hearing and any other information required by the commissioner.
 - (c) The commissioner shall act on the record before him within 30 days after receipt of the transcript of the hearing.
- (6) If no hearing is held, the commissioner may, within 90 days of acceptance of the application as complete, approve or disapprove the application based on the papers filed with him, together with the supervisor's findings and recommendations.
- (7)
 - (a) The commissioner may not approve the application unless the commissioner finds that the applicant has established by the preponderance of the evidence that:
 - (i) in light of the need for financial services in the area, the adequacy of existing facilities, and the effect the proposed institution would have on existing institutions in the area, the public need and convenience will be promoted by the establishment of the proposed institution;
 - (ii) in light of the ability of the proposed service area to support the proposed institution, including the extent and nature of existing competition, the economic history and future prospects of the community, and the opportunity for profitable employment of financial institution funds, conditions in the service area in which the proposed institution would transact business afford reasonable promise of a successful operation;
 - (iii) the institution is being formed only for legitimate purposes allowed by the laws of this state;
 - (iv) the proposed capital equals or exceeds the required minimum and is adequate in light of current and prospective conditions;
 - (v) if the applicant is seeking authority to accept deposits, the deposits will be insured or guaranteed by an agency of the federal government;
 - (vi) the proposed officers and directors have sufficient experience, ability, and standing to afford reasonable promise of a successful operation;
 - (vii) the name of the proposed financial institution does not resemble the name of any other institution transacting business in this state so closely as to cause confusion;
 - (viii) the applicants have complied with all of the provisions of law; and
 - (ix) no properly managed and soundly operated existing institutions offering substantially similar services in the service area to which the application relates will be unduly injured by approval of the application.
 - (b) The commissioner may condition approval of the application on the institution's acceptance of requirements or conditions with respect to insurance that the commissioner considers necessary to protect depositors.
- (8)
 - (a) The commissioner shall provide written findings and conclusions on the application.
 - (b) Upon approving an application, the commissioner shall:
 - (i) endorse the approval on the articles of incorporation;
 - (ii) file one copy with the Division of Corporations and Commercial Code;
 - (iii) retain one file copy; and
 - (iv) return one copy to the applicant within 10 days after the date of the commissioner's decision approving the application.

- (c) Upon disapproving an application, the commissioner shall mail notice of the disapproval to the applicant within 10 days.
 - (d) The commissioner may approve an application subject to conditions the commissioner considers appropriate to protect the public interest and carry out the purposes of this title.
 - (e) The commissioner shall give written notice of the decision to all persons who have filed a protest to the application.
- (9) Upon approval of an application for authorization to conduct a business subject to the jurisdiction of the department, the commissioner shall issue a license, permit, or other appropriate certificate of authority if:
- (a) except in the case of credit unions, all of the capital of the institution being formed has been paid in; and
 - (b) all the conditions and other requirements for approval of the application have been met.
- (10)
- (a) Any approval by the commissioner of an application under this section is considered revoked unless the business is open and operating within one year from the date of the approval.
 - (b) The commissioner, on written application made before the expiration of that period, and for good cause shown, may extend the date for activation for additional periods not to exceed six months each.
- (11) No person may obtain, for the purpose of resale, a certificate of approval to operate any institution under the jurisdiction of the department.
- (12) The commissioner may approve an application without any notice to other financial institutions to respond to an emergency arising from the insolvency of an existing institution or to prevent the failure of an existing institution if the commissioner makes the findings required by Subsection (7).

Amended by Chapter 388, 2009 General Session

7-1-705 Approval required for certain transactions -- Application -- Grounds for disapproval.

- (1) Except as provided in Subsection (5), an applicant for authorization to engage in any of the transactions described in Sections 7-1-702 and 7-1-703 shall file with the commissioner:
- (a) an application in a form prescribed by the commissioner;
 - (b) the fee prescribed for the transaction by the commissioner;
 - (c) other information that is required by rule, or that the commissioner considers necessary to make the findings required by Subsection (3); and
 - (d) if the applicant is not a Utah resident, a Utah corporation, or an out-of-state corporation qualified to do business in this state, a written consent to service of process on a resident of this state in any action or suit arising out of or connected with the proposed action.
- (2)
- (a) Within 60 days of acceptance of the application as complete, the commissioner shall respond to the application by writing the commissioner's findings of fact, conclusions, and order.
 - (b) The commissioner may approve an application subject to the terms and conditions the commissioner considers necessary to protect the public interest and carry out the purposes of this title.
 - (c) The commissioner may defer acceptance of the application as complete until the applicant has provided any information the commissioner considers necessary to decide whether to approve or deny the application.
- (3) The commissioner may disapprove any application filed under this section if the commissioner finds that:

- (a) the proposed transaction would be detrimental to the safety and soundness of the applicant, to any institution that is a party to the transaction, or to a subsidiary or affiliate of that institution;
 - (b) the applicant, its executive officers, directors, or principal stockholders have not established a record of sound performance, efficient management, financial responsibility, and integrity so that it would be against the interest of the depositors, other customers, creditors, or shareholders of an institution, or the public to authorize the proposed transaction;
 - (c) the financial condition of the applicant or any other institution that is a participant in the proposed transaction might jeopardize the financial stability of the applicant or other institution, or prejudice the interests of depositors or other customers of the applicant or other institutions;
 - (d) the consummation of the proposed transaction will tend to substantially lessen competition, unless the commissioner finds that the anticompetitive effects of the proposed transaction are clearly outweighed by the benefit of meeting the convenience and needs of the relevant market area to be served;
 - (e) the applicant has not established a record of meeting the credit needs of the communities that it or its subsidiary depository institution serves; or
 - (f) in the case of an interstate transaction, the applicant fails to obtain any required approval from a federal or state agency with regulatory authority over any of the institutions participating in the transaction.
- (4) In the case of an interstate transaction, the commissioner may accept an application in the form and manner prescribed by the state or federal agency that primarily regulates the applicant, supplemented as necessary to enable the commissioner to decide whether to approve or deny the application.
- (5)
- (a) The following branching activities, if they do not involve a merger or acquisition, are not subject to the requirements of this section, but are subject to Section 7-1-708:
 - (i) the establishment of a branch in Utah or another state by an out-of-state depository institution with a previously established branch in Utah; and
 - (ii) the establishment of a branch in another state by a Utah depository institution.
 - (b) Other interstate branching activities are subject to the requirements of both this section and Section 7-1-708.

Amended by Chapter 49, 1995 General Session

7-1-706 Application to commissioner to exercise power -- Procedure -- Notice.

- (1) Except as provided in Sections 7-1-704 and 7-1-705, by filing a request for agency action with the commissioner, any person may request the commissioner to:
- (a) issue any rule or order;
 - (b) exercise any powers granted to the commissioner under this title; or
 - (c) act on any matter that is subject to the approval of the commissioner.
- (2) Within 10 days of receipt of the request, the commissioner shall, at the applicant's expense, cause a supervisor to make a careful investigation of the facts relevant or material to the request.
- (3)
- (a) The supervisor shall submit written findings and recommendations to the commissioner.
 - (b) The application, any additional information furnished by the applicant, and the findings and recommendations of the supervisor may be inspected by any person at the office of the

commissioner, except those portions of the application or report that the commissioner designates as confidential to prevent a clearly unwarranted invasion of privacy.

- (4)
 - (a) If a hearing is held concerning the request, the commissioner shall publish notice of the hearing, at the applicant's expense, for the county where the applicant is located, as a class A notice under Section 63G-30-102, for three weeks before the date of the hearing.
 - (b) The notice required by Subsection (4)(a) shall include the information required by the department's rules.
 - (c) The commissioner shall act upon the request within 30 days after the close of the hearing, based on the record before the commissioner.
- (5)
 - (a) If no hearing is held, the commissioner shall approve or disapprove the request within 90 days of receipt of the request based on:
 - (i) the application;
 - (ii) additional information filed with the commissioner; and
 - (iii) the findings and recommendations of the supervisor.
 - (b) The commissioner shall act on the request by issuing findings of fact, conclusions, and an order, and shall mail a copy of each to:
 - (i) the applicant;
 - (ii) all persons who have filed protests to the granting of the application; and
 - (iii) other persons that the commissioner considers should receive copies.
- (6) The commissioner may impose any conditions or limitations on the approval or disapproval of a request that the commissioner considers proper to:
 - (a) protect the interest of creditors, depositors, and other customers of an institution;
 - (b) protect its shareholders or members; and
 - (c) carry out the purposes of this title.

Amended by Chapter 435, 2023 General Session

7-1-708 Establishing branches and relocating offices -- Application and procedure for approval -- Nonexempt credit unions.

- (1) A Utah depository institution or an out-of-state depository institution with a Utah branch or seeking to acquire a branch in this state may establish one or more branches, or relocate a branch office or its main office in this state, subject to the prior approval of the commissioner.
- (2) The approval of the commissioner required by Subsection (1) may be obtained by:
 - (a) filing an application with the department in a form the commissioner prescribes; and
 - (b) supplementing the application with information the commissioner considers material to determining whether to approve the application.
- (3)
 - (a) The commissioner shall approve or disapprove an application within 30 days after accepting the application as complete.
 - (b) If the commissioner does not approve or disapprove an application within the time stated in Subsection (3)(a), the application is considered approved.
- (4)
 - (a) The commissioner shall cause a supervisor to make an investigation of the facts relevant or material to an application.
 - (b) The supervisor that conducts the investigation required by Subsection (4)(a) shall submit written findings and recommendations to the commissioner.

- (5) An application, any supplemental information furnished by the applicant, and the findings and recommendations of the supervisor may be inspected by any person at the department's office, except those portions of the application the commissioner declares to be confidential to prevent a clearly unwarranted invasion of privacy, pursuant to the applicant's request.
- (6) To protect the safety and soundness of the applicant, the commissioner may:
 - (a) approve an application subject to the terms and conditions the commissioner considers necessary; or
 - (b) disapprove an application.
- (7)
 - (a) The commissioner's approval of any application under this section is considered revoked, unless the office is opened and operating within one year of the date approved by the commissioner for commencement of operations.
 - (b) The commissioner may extend the date for activation for up to two additional periods of not more than six months each:
 - (i) upon written application made before the expiration of a period; and
 - (ii) for good cause shown.
- (8) An out-of-state depository institution with a branch in Utah is not subject to the requirements of this section if the office or branch to be established or relocated is located outside of Utah.
- (9)
 - (a) For purposes of determining whether a nonexempt credit union may establish a branch, a nonexempt credit union is considered to be establishing a branch if the nonexempt credit union establishes:
 - (i) notwithstanding Section 7-1-103, a loan production office; or
 - (ii) any other office or facility that:
 - (A) is owned or operated by:
 - (I) the nonexempt credit union; or
 - (II) a credit union service organization in which the nonexempt credit union holds an ownership interest;
 - (B) is open to the public; and
 - (C) provides any product or service of the nonexempt credit union to a member of the nonexempt credit union.
 - (b) This section may not be interpreted as authorizing a loan production office to engage in any activity that a loan production office is not authorized to engage in under Section 7-1-715.

Amended by Chapter 327, 2003 General Session

7-1-709 Branches -- Discontinuance of operation.

- (1) A Utah depository institution or out-of-state depository institution authorized to do business in this state may discontinue operation of a branch upon resolution of its board of directors.
- (2) Upon adopting the resolution, the institution shall file an application with the commissioner specifying:
 - (a) the location of the branch to be discontinued;
 - (b) the date of the proposed discontinuance;
 - (c) the reasons for closing the branch; and
 - (d) the extent to which the public need and convenience or service to members would still be adequately met.
- (3)

- (a) Upon filing its application with the commissioner, the institution shall publish notice of the discontinuance:
 - (i) in a newspaper serving the area once a week for two consecutive weeks; and
 - (ii) as required by Section 45-1-101 for two weeks.
- (b) The commissioner may approve the application after a reasonable comment period following publication.
- (4) An out-of-state depository institution with a branch in Utah is not subject to the requirements of this section if the branch to be closed is located outside of Utah.

Amended by Chapter 388, 2009 General Session

7-1-710 "Agency" defined -- Purposes and establishment of agency.

- (1) As used in this section, "agency" means a place, person, or facility, stationary or mobile, other than the home office or a branch office:
 - (a) where functions of the financial institution not involving the receiving or paying of deposits, making of loans or the handling of cash may be performed;
 - (b) established for individual transactions and for special temporary purposes;
 - (c) established for the purposes set forth in Sections 7-1-608 and 7-1-609; or
 - (d) established to perform the functions of a financial institution service corporation.
- (2) A financial institution may establish one or more agencies without the prior written approval of the commissioner. Within 30 days of the establishment of an agency, the financial institution shall inform the commissioner in writing of the address of the agency and the specific functions for which it was established.
- (3) No agency may be converted to a branch without compliance with Section 7-1-708.

Amended by Chapter 189, 2014 General Session

7-1-711 Mobile facilities -- Approval required for operation.

No financial institution may operate a mobile facility in this state at which deposits are received, checks paid, or money lent without the prior written approval of the commissioner.

Amended by Chapter 133, 1991 General Session

7-1-712 Acquisition of office of another financial institution.

Any financial institution authorized to do business in this state may acquire an office of any other financial institution located in this state upon obtaining the prior written approval of the commissioner in the manner provided in Section 7-1-708 for the establishment of a branch.

Amended by Chapter 1, 1986 General Session

7-1-713 Conversion of financial institution -- Approval required -- Procedure -- Federal-state conversion.

- (1) Any financial institution authorized to do business as a particular class of financial institution under any chapter of this title may convert to an institution authorized to do business under another chapter by applying to the department for approval in the manner provided in Section 7-1-706.
- (2) If the commissioner approves the conversion, the institution shall immediately surrender its former charter to the commissioner. Under its new charter as a financial institution of a different

class, it is entitled to all the benefits and powers conferred under the applicable chapter to other financial institutions of that class and is subject to examination, supervision, and regulation to the same extent as all other financial institutions of that class.

- (3) Any depository institution organized under the laws of this state may convert to a depository institution organized under the laws of the United States upon compliance with the laws of the United States and upon surrender of its charter to the commissioner.
- (4) Any depository institution organized under the laws of the United States or any other state that is authorized to do business in this state may convert into a depository institution subject to the jurisdiction of the department by applying to the department for approval in the manner provided in Section 7-1-706.

Amended by Chapter 200, 1994 General Session

7-1-714 Judicial review of acts of commissioner -- Hearing by court.

- (1) Any person aggrieved by any rule, regulation, order, decision, or ruling or other act or failure to act of the commissioner under this title is entitled to judicial review.
- (2) Judicial review of other agency actions shall be governed by the procedures and requirements of this subsection.
 - (a) Within 30 days after receipt of notice of a rule, order, or other decision or ruling not arising from an adjudicative proceeding, or within 120 days after the commissioner has failed to act upon a request or application, the aggrieved person may file an application for judicial review with a court of competent jurisdiction in the county in which the applicant is located, or in the county where the office of the commissioner is located, and may request an immediate hearing on the act or failure to act.
 - (b) The court shall require adequate notice to be served on the commissioner and all other interested parties and shall give the petition for review precedence on its calendar.
 - (c) The court shall review the record before the commissioner and shall adjudicate the question, enter appropriate orders, and enforce them.
 - (d) The court may declare void any rule, regulation, order, decision, ruling, or other act of the commissioner it finds to be arbitrary, capricious, an abuse of discretion, or otherwise contrary to law.
- (3) Any action for judicial review of acts or failure to act of the commissioner shall be heard by the court and shall be based on the record made before the department.

Amended by Chapter 161, 1987 General Session

7-1-715 Loan production offices -- Application and procedure for approval.

- (1) With the prior approval of the commissioner, a depository institution may establish one or more loan production offices.
- (2) A loan production office shall be staffed and accessible to the public.
- (3) A loan production office may:
 - (a) solicit loans on behalf of its depository institution;
 - (b) assemble credit information;
 - (c) make property inspections and appraisals;
 - (d) secure title information;
 - (e) prepare applications for loans;
 - (f) solicit investors to purchase loans from the depository institution;
 - (g) seek to have these investors contract with a depository institution for servicing the loans; and

- (h) engage in other activities in the nature of acting as an agent for the parent depository institution in facilitating the production of loans.
- (4) A loan production office may not do any of the following:
 - (a) accept deposits;
 - (b) originate deposit, savings, or share accounts;
 - (c) pay checks;
 - (d) approve loans; or
 - (e) disburse loan funds.
- (5) A loan processed by a loan production office may only be approved at the main office or approved branch of the depository institution, except a loan production office may make a recommendation, subject to independent analysis and approval by the depository institution.
- (6) Funds from a loan processed by a loan production office may only be disbursed at the main office or approved branch of the depository institution, or at the office of an independent third party, such as a title company or escrow agent.
- (7) Although a loan production office is not considered a branch, the establishment of a loan production office is subject to the prior approval of the commissioner in the manner provided in Section 7-1-708 for the establishment of a branch office.
- (8) Each depository institution with operating loan production offices in Utah as of June 1, 1994, shall file an initial registration with the department stating the location of each loan production office on or before July 15, 1994. All subsequent applications for a loan production office require prior approval of the commissioner.
- (9) If the commissioner determines that it is in the public interest, the department may examine the books and records of the office at the per diem charge established in Section 7-1-401.

Amended by Chapter 49, 1995 General Session

7-1-716 Affiliate depository institutions acting as agents -- Notification required.

- (1) Any depository institution may, at its main office or at any branch, act as an agent of any other depository institution that is a subsidiary of the same depository institution holding company in conducting the activities authorized under this section.
- (2) This section applies regardless of whether the affiliate depository institutions have the same home state.
- (3) A depository institution acting as agent for an affiliate depository institution may:
 - (a) receive deposits;
 - (b) renew time deposits;
 - (c) engage in the activities authorized for a loan production office under Section 7-1-715;
 - (d) service loans; and
 - (e) receive payments on loans and other obligations.
- (4) A depository institution may not do any of the following as an agent on behalf of an affiliate depository institution:
 - (a) open or originate deposit, savings, or share accounts;
 - (b) evaluate or approve loans;
 - (c) disburse loan funds; or
 - (d) conduct any activity as an agent that it is prohibited from conducting as a principal under any applicable law.
- (5) A depository institution acting as a principal may not have an affiliate depository institution act as its agent in conducting any activity that:
 - (a) the principal depository institution is prohibited from conducting; or

- (b) the agent depository institution would be prohibited from conducting as a principal.
- (6) An agency relationship between affiliates under this section shall be consistent with safe and sound practices and shall comply with all applicable law.
- (7) A depository institution acting as an agent is not considered to be a branch of the affiliate solely because of activities conducted under this section.

Enacted by Chapter 49, 1995 General Session