

Effective 5/13/2014

**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