

## **Part 5 Enforcement**

### **7-23-501 Enforcement by department -- Rulemaking.**

- (1) Subject to the requirements of Title 63G, Chapter 4, Administrative Procedures Act, the department may:
  - (a) receive and act on complaints;
  - (b) take action designed to obtain voluntary compliance with this chapter;
  - (c) commence administrative or judicial proceedings on its own initiative to enforce compliance with this chapter; or
  - (d) take action against a check casher or deferred deposit lender that fails to:
    - (i) respond to the department, in writing within 30 business days of the day on which the check casher or deferred deposit lender receives notice from the department of a complaint filed with the department; or
    - (ii) submit information as requested by the department.
- (2) The department may:
  - (a) counsel persons and groups on their rights and duties under this chapter;
  - (b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
    - (i) restrict or prohibit lending or servicing practices that are misleading, unfair, or abusive;
    - (ii) promote or assure fair and full disclosure of the terms and conditions of agreements and communications between a customer and:
      - (A) a check casher; or
      - (B) a deferred deposit lender; and
    - (iii) promote or assure uniform application of or to resolve ambiguities in applicable state or federal laws or federal regulations; and
  - (c) employ hearing examiners, clerks, and other employees and agents as necessary to perform the department's duties under this chapter.

Renumbered and Amended by Chapter 96, 2008 General Session

Amended by Chapter 382, 2008 General Session

### **7-23-502 Examination of books, accounts, and records by the department.**

- (1) At least annually the department shall, for each premise engaging in the business of cashing checks or the business of deferred deposit lending:
  - (a) examine the books, accounts, and records; and
  - (b) make investigations to determine compliance with this chapter.
- (2) In accordance with Section 7-1-401, a person examined under Subsection (1) shall pay a fee for the examination conducted under Subsection (1).

Renumbered and Amended by Chapter 96, 2008 General Session

### **7-23-503 Reporting by commissioner.**

- (1) Subject to Subsection (2), as part of the commissioner's annual report to the governor and Legislature under Section 7-1-211, the commissioner shall report to the governor and Legislature on the operations on an aggregate basis of deferred deposit lenders operating in the state.
- (2) In preparing the report required by Subsection (1), the commissioner:

- (a) shall include in the report for the immediately preceding calendar year aggregate information from the one or more operations statements filed under Subsection 7-23-201(2)(e) by deferred deposit lenders for that calendar year;
- (b) shall include in the report:
  - (i) the total number of written complaints concerning issues material to deferred deposit loan transactions received by the department in a calendar year from persons who have entered into a deferred deposit loan with a deferred deposit lender;
  - (ii) for deferred deposit lenders who are registered with the department:
    - (A) the number of the complaints described in Subsection (2)(b)(i) that the department considers resolved; and
    - (B) the number of the complaints described in Subsection (2)(b)(i) that the department considers unresolved; and
  - (iii) for deferred deposit lenders who are not registered with the department:
    - (A) the number of the complaints described in Subsection (2)(b)(i) that the department considers resolved; and
    - (B) the number of the complaints described in Subsection (2)(b)(i) that the department considers unresolved; and
- (c) may not include in the report information from an operations statement filed with the department that could identify a specific deferred deposit lender.

Amended by Chapter 323, 2012 General Session

**7-23-504 Penalties.**

- (1) A person who violates this chapter or who files materially false information with a registration or renewal under Section 7-23-201 is:
  - (a) guilty of a class B misdemeanor, except for a violation of:
    - (i) Subsection 7-23-401(1)(f)(i), (ii), or (iii); or
    - (ii) rules made under Subsection 7-23-501(2)(b); and
  - (b) subject to revocation of a person's registration under this chapter.
- (2) Subject to Title 63G, Chapter 4, Administrative Procedures Act, if the department determines that a person is engaging in the business of cashing checks or the business of deferred deposit lending in violation of this chapter, the department may:
  - (a) revoke that person's registration under this chapter;
  - (b) issue a cease and desist order from committing any further violations;
  - (c) prohibit the person from continuing to engage in the business of:
    - (i) cashing checks; or
    - (ii) deferred deposit lending;
  - (d) impose an administrative fine not to exceed \$1,000 per violation, except that:
    - (i) a fine imposed under Subsection 7-23-201(4) shall comply with Subsection 7-23-201(4); and
    - (ii) the aggregate total of fines imposed under this chapter against a person in a calendar year may not exceed \$30,000 for that calendar year; or
  - (e) take any combination of actions listed under this Subsection (2).

Renumbered and Amended by Chapter 96, 2008 General Session

Amended by Chapter 382, 2008 General Session