Effective 5/12/2020
Superseded 10/1/2026
7-23-201 Registration -- Rulemaking.

(1)
- (a) It is unlawful for a person to engage in the business of cashing checks or the business of deferred deposit lending in Utah or with a Utah resident unless the person:
  - (i) registers with the department in accordance with this chapter; and
  - (ii) maintains a valid registration.
- (b) It is unlawful for a person to operate a mobile facility in this state to engage in the business of:
  - (i) cashing checks; or
  - (ii) deferred deposit lending.
- (c) An officer or employee of a person required to register under Subsection (1)(a) is not required to register if the person for whom the individual is an officer or employee is registered.

(2)
- (a) A registration and a renewal of a registration expires on December 31 of each year unless on or before that date the person renews the registration.
- (b) To register under this section, a person shall:
  - (i) pay an original registration fee established under Subsection 7-1-401(8);
  - (ii) submit a registration statement containing the information described in Subsection (2)(d);
  - (iii) submit evidence satisfactory to the commissioner that the person is authorized to conduct business in this state as a domestic or foreign entity pursuant to filings with the Division of Corporations and Commercial Code under Title 16, Corporations, or Title 48, Unincorporated Business Entity Act; and
  - (iv) if the person engages in the business of deferred deposit lending, submit evidence satisfactory to the commissioner that the person is registered with the nationwide database.
- (c) To renew a registration under this section, a person shall:
  - (i) pay the annual fee established under Subsection 7-1-401(5);
  - (ii) submit a renewal statement containing the information described in Subsection (2)(d);
  - (iii) submit evidence satisfactory to the commissioner that the person is authorized to conduct business in this state as a domestic or foreign entity pursuant to filings with the Division of Corporations and Commercial Code under Title 16, Corporations, or Title 48, Unincorporated Business Entity Act;
  - (iv) if the person engages in the business of deferred deposit lending, submit evidence satisfactory to the commissioner that the person is registered with the nationwide database; and
  - (v) if the person engages in the business of deferred deposit lending, submit an operations statement containing the information described in Subsections (2)(e) and (f).
- (d) A registration or renewal statement shall state:
  - (i) the name of the person;
  - (ii) the name in which the business will be transacted if different from that required in Subsection (2)(d)(i);
  - (iii) the address of the person's principal business office, which may be outside this state;
  - (iv) the addresses of all offices in this state at which the person conducts the business of:
    - (A) cashing checks; or
    - (B) deferred deposit lending;
  - (v) if the person conducts the business of cashing checks or the business of deferred deposit lending in this state but does not maintain an office in this state, a brief description of the manner in which the business is conducted;

(vi) the name and address in this state of a designated agent upon whom service of process may be made;
(vii) whether there is a conviction of a crime:
(A) involving an act of fraud, dishonesty, breach of trust, or money laundering; and
(B) with respect to that person, an officer, director, manager, operator, or principal of that person, or an employee of that person engaged in the business described in this chapter; and
(viii) any other information required by the rules of the department.
(e) An operations statement required for a deferred deposit lender to renew a registration shall state for the immediately preceding calendar year:
(i) the average principal amount of the deferred deposit loans extended by the deferred deposit lender;
(ii) for deferred deposit loans paid in full, the average number of days a deferred deposit loan is outstanding for the duration of time that interest is charged;
(iii) the total number of deferred deposit loans rescinded by the deferred deposit lender at the request of the customer pursuant to Subsection 7-23-401(3)(b);
(iv) of the persons to whom the deferred deposit lender extended a deferred deposit loan, the percentage that entered into an extended payment plan under Section 7-23-403;
(v) the total dollar amount of deferred deposit loans rescinded by the deferred deposit lender at the request of the customer pursuant to Subsection 7-23-401(3)(b);
(vi) the average annual percentage rate charged on deferred deposit loans;
(vii) the range of annual percentage rates charged on deferred deposit loans;
(viii) the average dollar amount of extended payment plans entered into under Section 7-23-403 by the deferred deposit lender;
(ix) the number of deferred deposit loans carried to the maximum 10 weeks after the day on which the deferred deposit loan is extended;
(x) the total dollar amount of deferred deposit loans carried to the maximum 10 weeks after the day on which the deferred deposit loan is extended;
(xi) the number of deferred deposit loans not paid in full at the end of 10 weeks after the day on which the deferred deposit loan is extended;
(xii) the total dollar amount of deferred deposit loans not paid in full at the end of 10 weeks after the day on which the deferred deposit loan is extended;
(xiii) the percentage of deferred deposit loans against which the deferred deposit lender initiates civil action to collect on the deferred deposit loan; and
(xiv) for the civil actions described in Subsection (2)(e)(xiii), the percentage of those civil actions whose deferred deposit loans have the following payment history:
(A) no payments;
(B) one payment;
(C) two payments;
(D) three payments;
(E) four payments;
(F) five payments;
(G) six payments;
(H) seven payments;
(I) eight payments;
(J) nine payments; and
(K) 10 or more payments.

(f) In addition to the information in Subsection (2)(e), an operations statement required for a deferred deposit lender to renew a registration shall state for the immediately preceding calendar year:

(i) the total number of deferred deposit loans extended by the deferred deposit lender;

(ii) the total dollar amount of deferred deposit loans extended by the deferred deposit lender;

(iii) the total number of individuals to whom the deferred deposit lender extended a deferred deposit loan; and

(iv) the percentage of deferred deposit loans not repaid according to the terms of the loan.

(g) The commissioner may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the transition of persons registering with the nationwide database.

(3)

(a) Information provided by a deferred deposit lender under Subsections (2)(e) and (f) is:

(i) confidential in accordance with Section 7-1-802; and

(ii) not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The department shall:

(i) only use information a deferred deposit lender provides to the department under Subsection (2)(f) to determine compliance with this chapter; and

(ii) delete or otherwise destroy information a deferred deposit lender provides to the department under Subsection (2)(f) within two years after the day on which the deferred deposit lender provides the information.

(4)

(a) The commissioner may impose an administrative fine determined under Subsection (4)(b) on a person if:

(i) the person is required to be registered under this chapter;

(ii) the person fails to register or renew a registration in accordance with this chapter;

(iii) the department notifies the person that the person is in violation of this chapter for failure to be registered; and

(iv) the person fails to register within 30 days after the day on which the person receives the notice described in Subsection (4)(a)(iii).

(b) Subject to Subsection (4)(c), the administrative fine imposed under this section is:

(i) $500 if the person:

(A) has no office in this state at which the person conducts the business of:

(I) cashing checks; or

(II) deferred deposit lending; or

(B) has one office in this state at which the person conducts the business of:

(I) cashing checks; or

(II) deferred deposit lending; or

(ii) if the person has two or more offices in this state at which the person conducts the business of cashing checks or the business of deferred deposit lending, $500 for each office at which the person conducts the business of:

(A) cashing checks; or

(B) deferred deposit lending.

(c) The commissioner may reduce or waive a fine imposed under this Subsection (4) if the person shows good cause.

(5) If the information in a registration, renewal, or operations statement required under Subsection (2) becomes inaccurate after filing, a person is not required to notify the department until:

(a) that person is required to renew the registration; or

(b) the department specifically requests earlier notification.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules consistent with this section providing for:

(a) the form, content, and filing of a registration and renewal statement described in Subsection (2)(d); and

(b) the form and filing of an operations statement described in Subsection (2)(e).

(7) A deferred deposit loan that is made by a person who is required to be registered under this chapter but who is not registered is void, and the person may not collect, receive, or retain any principal or other interest or fees in connection with the deferred deposit loan.

(8)

(a) At the time a person registers under this section, the person shall disclose a conviction of a crime described in Subsection (2)(d)(vii) that is:

(i) known to the person; or

(ii) included in:

(A) a Utah Bureau of Criminal Identification report; or

(B) a background check acceptable to the department that provides information similar to a Utah Bureau of Criminal Identification report.

(b) To comply with Subsection (8)(a), a person registered under this chapter shall, for each individual described in Subsection (2)(d)(vii):

(i) obtain a Utah Bureau of Criminal Identification report; or

(ii) conduct a background check acceptable to the commissioner that provides information similar to a Utah Bureau of Criminal Identification report.

(c) A person registered under this section shall keep a record of the information described in Subsection (8)(b) for the time period required by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 121, 2020 General Session