

Effective 5/4/2022

Part 2 Registration

7-27-201 Registration requirements -- Rulemaking.

- (1)
 - (a) Beginning January 1, 2023, it is unlawful for a person to engage in a commercial financing transaction as a provider 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) An officer or employee of a person required to register under this section 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 registration expires on December 31 of each year.
 - (b) To register or renew a registration under this section, a person shall:
 - (i) pay an original registration fee established under Subsection 7-1-401(8); and
 - (ii) submit a registration statement containing the information described in Subsection (2)(d).
 - (c) To renew a registration under this section, a person shall:
 - (i) pay the annual fee established under Subsection 7-1-401(5); and
 - (ii) submit a renewal statement containing the information described in Subsection (2)(d).
 - (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, regardless of whether in the state or outside the state;
 - (iv) the address of each office in this state at which the person engages in commercial financing transactions;
 - (v) if the person engages in commercial financing transactions in this state but does not maintain an office in the 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;
 - (viii) evidence satisfactory to the department that the person is registered with the Nationwide Multistate Licensing System and Registry; and
 - (ix) any other information required by the rules of the department.
 - (e)
 - (i) The commissioner may impose an administrative fine determined under Subsection (2)(e)(ii) on a person if:
 - (A) the person is required to be registered under this chapter;
 - (B) the person fails to register or renew a registration in accordance with this chapter;
 - (C) the department notifies the person that the person is in violation of this chapter for failure to be registered; and

- (D) the person fails to register within 30 days after the day on which the person receives the notice described in Subsection (2)(e)(i)(C).
- (ii) Subject to Subsection (2)(e)(iii), the administrative fine imposed under this Subsection (2)(e) is:
 - (A) \$500 if the person has zero or one office in this state at which the person engages in commercial financing transactions; or
 - (B) if the person has two or more offices in this state at which the person engages in commercial financing transactions, \$500 for each office at which the person engages in commercial financing transactions.
- (iii) The commissioner may reduce or waive a fine imposed under this Subsection (2)(e) if the person shows good cause.
- (3) If the information in a registration or renewal 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.
- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules consistent with this section:
 - (a) providing for the form, content, and filing of a registration and renewal statement; and
 - (b) providing for the transition of persons registering with the nationwide database.

Enacted by Chapter 449, 2022 General Session

7-27-202 Disclosures for commercial financing transactions.

- (1) Before consummating a commercial financing transaction, a provider shall disclose the terms of the commercial financing transaction in accordance with this section and rules made by the commissioner.
- (2) A provider shall disclose the following information in connection with each commercial financing transaction:
 - (a) the total amount of funds provided to the business under the terms of the commercial financing transaction;
 - (b) the total amount of funds disbursed to the business under the terms of the commercial financing transaction, if less than the amount described in Subsection (2)(a);
 - (c) the total amount to be paid to the provider under the terms of the commercial financing transaction;
 - (d) the total dollar cost of the commercial financing transaction, calculated by finding the difference between:
 - (i) the amount described in Subsection (2)(a); and
 - (ii) the amount described in Subsection (2)(c);
 - (e)
 - (i) the manner, frequency, and amount of each payment; or
 - (ii) if the amount of each payment may vary, the manner, frequency, and estimated amount of the initial payment; and
 - (f) a statement of whether there are any costs or discounts associated with prepayment under the commercial financing transaction, including a reference to the paragraph in the commercial financing transaction agreement that creates each cost or discount.
- (3) The commercial financing transaction agreement shall include a description of the methodology for calculating any variable payment amount and the circumstances that may cause a payment amount to vary.

(4) The provisions of this section apply to a commercial financing transaction consummated on or after January 1, 2023.

Amended by Chapter 114, 2024 General Session