

Superseded 5/12/2020

70C-7-107 Notice of negative credit report required.

- (1) As used in this section:
 - (a) "Creditor," in addition to its definition under Section 70C-1-302, includes an agent of a creditor engaged in administering or collecting the creditor's accounts.
 - (b) "Credit reporting agency" means any credit bureau, consumer reporting agency, association of lending institutions, association of merchants, association of other creditors, any person, firm, partnership, cooperative, or corporation which, for a fee, dues, or on a cooperative nonprofit basis, is organized for the purpose of, or regularly engages in, the gathering or evaluating of consumer credit information or other information about consumers for the purpose of reporting to third parties on the credit rating or creditworthiness of any party.
 - (c)
 - (i) "Negative credit report" means information reflecting on the credit history of a party that, because of the party's past delinquencies, late or irregular payment history, insolvency, or any form of default, would reasonably be expected to affect adversely the party's ability to obtain or maintain credit.
 - (ii) Negative credit report does not include information or credit histories arising from a nonconsumer transaction or any other credit transaction outside the scope of this title, nor does it include inquiries about a consumer's record.
- (2) A creditor may submit a negative credit report to a credit reporting agency, only if the creditor notifies the party whose credit record is the subject of the negative report. After providing this notice, a creditor may submit additional information to a credit reporting agency respecting the same transaction or extension of credit that gave rise to the original negative credit report without providing any additional notice.
- (3)
 - (a) Notice shall be in writing and shall be delivered in person or mailed first class, postage prepaid, to the party's last-known address prior to or within 30 days after the transmission of the report.
 - (b) The notice may be part of any notice of default, billing statement, or other correspondence from the creditor to the party.
 - (c) The notice is sufficient if it takes substantially the following form:

"As required by Utah law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations."
 - (d) The notice may, in the creditor's discretion, be more specific than the form given in Subsection (3)(c). For example, the notice may provide particular information regarding an account or list the approximate date on which the creditor submitted or intends to submit a negative credit report.
- (4)
 - (a) A creditor who fails to provide notice as required by this section is liable to the injured party for actual damages. In any cause of action filed to determine the liability of a creditor or damages, the prevailing party in such an action is entitled to court costs and attorney's fees.
 - (b) If a creditor willfully violates this section, the court may award punitive damages in an amount not in excess of two times the amount of the actual damages awarded.
 - (c) A creditor is not liable for failure to provide notice if he establishes by a preponderance of the evidence that, at the time of his failure to give notice, he maintained reasonable procedures to comply with this section.

(5) A creditor is not required to comply with this section in violation of 11 U.S.C. Sec. 362, as amended.