

**70C-8-104 Enforcement proceedings.**

- (1)
  - (a) The department may take an action described in Subsection (1)(b) if the department determines that any party engaging in activities subject to this title is violating or has violated or the department has reasonable cause to believe is about to violate:
    - (i) any applicable provision of this title;
    - (ii) any rule or order under this title;
    - (iii) any condition imposed in writing in connection with the granting of any application or other request by the party; or
    - (iv) any federal statute or regulation pertaining to consumer credit in effect at the time of the determination described in Subsection (1)(a).
  - (b) If the department makes a determination described in Subsection (1)(a), the department may:
    - (i) order the party to cease and desist from committing any further violations; and
    - (ii) in the most serious instances, prohibit a party from making further extensions of credit to consumers.
  - (c) The department shall by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this chapter, designate which one or more federal statutes or regulations are federal statutes or regulations pertaining to consumer credit for purposes of this Subsection (1).
- (2) The department shall afford an opportunity for hearing upon request of any party described in Subsection (1)(a) if the request is filed with the department within 30 days after the party requesting the hearing first receives notice of the allegations.
- (3)
  - (a) If the department determines that a practice that it has alleged is unlawful should be enjoined during the pendency of any proceedings incident to that allegation, the department may issue a temporary order:
    - (i) at the commencement of the proceedings; or
    - (ii) at any time after commencement of the proceeding.
  - (b) The temporary order described in this Subsection (3) is fully binding on the party to whom the temporary order is directed until:
    - (i) the proceedings are concluded; or
    - (ii) the temporary order is modified or dissolved by the department.
  - (c) Any party to whom a temporary order is directed may request a hearing concerning the order, which shall be held:
    - (i) at the earliest mutually convenient time, but in no event more than 10 days, after the party's request is received by the department; or
    - (ii) at any other time the parties may mutually agree upon.
  - (d) Every temporary order shall include findings and conclusions in support of the order.
  - (e) A temporary order may not be issued unless the department finds from specific facts supported by sworn statement or the records of a party subject to the order that consumers are otherwise likely to suffer immediate and irreparable injury, loss, or damage before proceedings, incident to a final order, can be completed.
- (4) The department may not award damages or penalties against a creditor.
- (5)
  - (a) Any order issued by the department under authority of this title shall:
    - (i) be in writing;
    - (ii) be delivered to or served upon the party affected; and
    - (iii) specify its effective date, which may be immediate or at a later date.

- (b) An order described in Subsection (5)(a) shall remain in effect until:
  - (i) withdrawn by the department; or
  - (ii) terminated by a court order.
- (c)
  - (i) An order of the department, upon application made on or after the effective date of the order by the department to a court of general jurisdiction in the county in which an office or the residence of the party is located, may be enforced ex parte and without notice by an order to comply entered by the court.
  - (ii) If the proceeding involves more than one party and each of the parties does not have an office or residence in one county, the department may file its application in any county of this state where one of the parties has an office or residence.
  - (iii) If no party to the proceeding has an office or residence in the state, the department's application shall be filed in the Third District Court.

Amended by Chapter 382, 2008 General Session