

Part 19
Money Laundering and Currency Transaction Reporting Act

76-10-1901 Short title.

This part is known as the Money Laundering and Currency Transaction Reporting Act.

Enacted by Chapter 241, 1989 General Session

76-10-1902 Definitions.

As used in this part:

- (1) "Bank" means an agent, agency, or office in this state of a person doing business in any one of the following capacities:
 - (a) a commercial bank or trust company organized under the laws of this state or of the United States;
 - (b) a private bank;
 - (c) a savings and loan association or a building and loan association organized under the laws of the United States;
 - (d) an insured institution as defined in Section 401 of the National Housing Act;
 - (e) a savings bank, industrial bank, or other thrift institution;
 - (f) a credit union organized under the laws of this state or of the United States; or
 - (g) any other organization chartered under Title 7, Financial Institutions Act, and subject to the supervisory authority set forth in that title.
- (2) "Conducts" includes initiating, concluding, or participating in initiating or concluding a transaction.
- (3)
 - (a) "Currency" means the coin and paper money of the United States or of another country that is designated as legal tender, that circulates, and is customarily used and accepted as a medium of exchange in the country of issuance.
 - (b) "Currency" includes United States silver certificates, United States notes, Federal Reserve notes, and foreign bank notes customarily used and accepted as a medium of exchange in a foreign country.
- (4) "Financial institution" means an agent, agency, branch, or office within this state of a person doing business, whether or not on a regular basis or as an organized business concern, in one or more of the following capacities:
 - (a) a bank, except bank credit card systems;
 - (b) a broker or dealer in securities;
 - (c) a currency dealer or exchanger, including a person engaged in the business of check cashing;
 - (d) an issuer, seller, or redeemer of travelers checks or money orders, except as a selling agent exclusively who does not sell more than \$150,000 of the instruments within any 30-day period;
 - (e) a licensed transmitter of funds or other person engaged in the business of transmitting funds;
 - (f) a telegraph company;
 - (g) a person subject to supervision by a state or federal supervisory authority; or
 - (h) the United States Postal Service regarding the sale of money orders.
- (5) "Financial transaction" means a transaction:

- (a) involving the movement of funds by wire or other means or involving one or more monetary instruments, which in any way or degree affects commerce; or
 - (b) involving the use of a financial institution that is engaged in, or its activities affect commerce in any way or degree.
- (6) The phrase "knows that the property involved represents the proceeds of some form of unlawful activity" means that the person knows or it was represented to the person that the property involved represents proceeds from a form of activity, although the person does not necessarily know which form of activity, that constitutes a crime under state or federal law, regardless of whether or not the activity is specified in Subsection (12).
- (7) "Monetary instruments" means coins or currency of the United States or of another country, travelers checks, personal checks, bank checks, money orders, and investment securities or negotiable instruments in bearer form or in other form so that title passes upon delivery.
- (8) "Person" means an individual, corporation, partnership, trust or estate, joint stock company, association, syndicate, joint venture, or other unincorporated organization or group, and all other entities cognizable as legal personalities.
- (9) "Proceeds" means property acquired or derived directly or indirectly from, produced through, realized through, or caused by an act or omission and includes property of any kind.
- (10) "Property" means anything of value, and includes an interest in property, including a benefit, privilege, land, or right with respect to anything of value, whether real or personal, tangible or intangible.
- (11) "Prosecuting agency" means the office of the attorney general or the office of the county attorney, including an attorney on the staff whether acting in a civil or criminal capacity.
- (12) "Specified unlawful activity" means an unlawful activity defined as an unlawful activity in Section 76-10-1602, except an illegal act under Title 18, Section 1961(1)(B), (C), and (D), United States Code, and includes activity committed outside this state which, if committed within this state, would be unlawful activity.
- (13) "Transaction" means a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition. With respect to a financial institution, "transaction" includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of a stock, bond, certificate of deposit, or other monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.
- (14) "Transaction in currency" means a transaction involving the physical transfer of currency from one person to another. A transaction that is a transfer of funds by means of bank check, bank draft, wire transfer, or other written order that does not include the physical transfer of currency is not a transaction in currency under this chapter.

Amended by Chapter 73, 2013 General Session

76-10-1903 Money laundering.

- (1) A person commits the offense of money laundering who:
- (a) transports, receives, or acquires the property which is in fact proceeds of the specified unlawful activity, knowing that the property involved represents the proceeds of some form of unlawful activity;
 - (b) makes proceeds of unlawful activity available to another by transaction, transportation, or other means, knowing that the proceeds are intended to be used for the purpose of continuing or furthering the commission of specified unlawful activity;
 - (c) conducts a transaction knowing the property involved in the transaction represents the proceeds of some form of unlawful activity with the intent:

- (i) to promote the unlawful activity;
 - (ii) to conceal or disguise the nature, location, source, ownership, or control of the property; or
 - (iii) to avoid a transaction reporting requirement under this chapter or under federal law; or
 - (d) knowingly accepts or receives property which is represented to be proceeds of unlawful activity.
- (2) Under Subsection (1)(d), knowledge that the property represents the proceeds of unlawful activity may be established by proof that a law enforcement officer or an individual acting at the request of a law enforcement officer made the representations and the person's subsequent statements or actions indicate that the person believed those representations to be true.

Amended by Chapter 74, 2009 General Session

76-10-1904 Money laundering -- Penalty.

- (1) A person who violates Subsection 76-10-1903(1)(a), (b), or (c) is guilty of a second degree felony.
- (2) A person who violates Subsection 76-10-1903(1)(d) is guilty of a third degree felony.

Amended by Chapter 17, 1996 General Session

76-10-1906 Reporting -- Criminal and civil penalties -- Enforcement.

- (1)
- (a) A person engaged in a trade or business, except a financial institution, who receives more than \$10,000 as described in Subsection (1)(b) shall complete and file with the State Bureau of Investigation the information required by 26 U.S.C. Sec. 6050I, concerning returns relating to currency received in trade or business.
 - (b) Subsection (1)(a) applies if the person described in Subsection (1) receives more than \$10,000 in domestic or foreign currency:
 - (i) in one transaction; or
 - (ii) through two or more related transactions during one business day.
 - (c) A person who knowingly and intentionally fails to comply with the reporting requirements of this Subsection (1) is:
 - (i) on a first conviction, guilty of a class C misdemeanor; and
 - (ii) on a second or subsequent conviction, guilty of a class A misdemeanor.
 - (d) A person is guilty of a third degree felony who knowingly and intentionally violates this Subsection (1) and the violation is committed either:
 - (i) in furtherance of the commission of any other violation of state law; or
 - (ii) as part of a pattern of illegal activity involving transactions exceeding \$100,000 in any 12-month period.
- (2)
- (a) The State Bureau of Investigation and the Office of the Attorney General:
 - (i) shall enforce compliance with Subsection (1); and
 - (ii) are custodians of and have access to all information and documents filed under Subsection (1).
 - (b) The information is confidential, except a law enforcement agency, county attorney, or district attorney, when establishing a clear need for the information for investigative purposes, shall have access to the information and shall maintain the information in a confidential manner except as otherwise provided by the Utah Rules of Criminal Procedure.

Amended by Chapter 268, 2008 General Session

76-10-1907 Separate offenses.

- (1) Under this part each individual currency transaction exceeding \$10,000 and made in violation of Subsection 76-10-1906(1) or each financial transaction in violation of Section 76-10-1903 or 76-10-1904 involving the movement of funds in excess of \$10,000 is a separate punishable offense.
- (2) Under this part each failure to file a report as required under Subsection 76-10-1906(1) is a separate punishable offense.

Enacted by Chapter 241, 1989 General Session