

FINANCIAL INSTITUTIONS AMENDMENTS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: John L. Valentine

LONG TITLE

General Description:

This bill modifies the Financial Institutions Act to permit certain financial institutions to be organized as limited liability companies, to provide for industrial banks, and to provide for a study.

Highlighted Provisions:

This bill:

- ▶ provides the conditions under which specified financial institutions can be organized as or converted to a limited liability company;
- ▶ addresses application of corporate terminology to limited liability companies;
- ▶ changes references to industrial loan corporations to industrial banks;
- ▶ addresses formation and operation of industrial banks;
- ▶ provides grandfathering for nondepository industrial loan companies;
- ▶ provides for the study of whether specified financial institutions should be allowed to be organized as or convert to a limited liability company; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

7-1-103, as last amended by Chapter 260, Laws of Utah 2000

S.B. 176

Enrolled Copy

7-1-201, as last amended by Chapter 200, Laws of Utah 1994
7-1-203, as last amended by Chapter 176, Laws of Utah 2002
7-1-207, as last amended by Chapter 200, Laws of Utah 1994
7-1-301, as last amended by Chapter 184, Laws of Utah 1999
7-1-324, as enacted by Chapter 75, Laws of Utah 2003
7-1-503, as last amended by Chapter 49, Laws of Utah 1995
7-1-701, as last amended by Chapter 19, Laws of Utah 1997
7-3-3, as last amended by Chapter 49, Laws of Utah 1995
7-8-3, as last amended by Chapter 91, Laws of Utah 1997
7-8-5, as last amended by Chapter 200, Laws of Utah 1994
7-8-7, as last amended by Chapter 200, Laws of Utah 1994
7-8-11, as last amended by Chapter 200, Laws of Utah 1994
7-8-12, as last amended by Chapter 200, Laws of Utah 1994
7-8-13, as last amended by Chapter 200, Laws of Utah 1994
7-8-14, as last amended by Chapter 200, Laws of Utah 1994
7-8-15, as last amended by Chapter 200, Laws of Utah 1994
7-8-16, as last amended by Chapter 200, Laws of Utah 1994
7-8-19, as last amended by Chapter 200, Laws of Utah 1994
7-8-20, as enacted by Chapter 154, Laws of Utah 1993
9-2-1923, as enacted by Chapter 291, Laws of Utah 2003
25-5-4, as last amended by Chapter 182, Laws of Utah 1996
31A-21-109, as enacted by Chapter 75, Laws of Utah 2003
67-4a-102, as last amended by Chapter 248, Laws of Utah 1998
75-6-101, as enacted by Chapter 150, Laws of Utah 1975

ENACTS:

7-1-810, Utah Code Annotated 1953
7-8-21, Utah Code Annotated 1953

Uncodified Material Affected:

AMENDS UNCODIFIED MATERIAL:

Uncodified Section 27, Chapter 327, Laws of Utah 2003

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **7-1-103** is amended to read:

7-1-103. Definitions.

As used in this title:

(1) (a) "Bank" means a person authorized under the laws of this state, another state, or the United States to accept deposits from the public.

(b) "Bank" does not include:

(i) a federal savings and loan association or federal savings bank;

(ii) a savings and loan association or savings bank subject to Chapter 7, Savings and Loan Association Act;

(iii) an industrial [~~loan corporation~~] bank subject to Chapter 8, Industrial Banks;

(iv) a federally chartered credit union; or

(v) a credit union subject to Chapter 9, Utah Credit Union Act.

(2) "Banking business" means the offering of deposit accounts to the public and the conduct of such other business activities as may be authorized by this title.

(3) (a) "Branch" means a place of business of a financial institution, other than its main office, at which deposits are received and paid.

(b) "Branch" does not include:

(i) an automated teller machine, as defined in Section 7-16a-102;

(ii) a point-of-sale terminal, as defined in Section 7-16a-102; or

(iii) a loan production office under Section 7-1-715.

(4) "Commissioner" means the Commissioner of Financial Institutions.

(5) "Control" means the power, directly or indirectly, to:

(a) direct or exercise a controlling influence over:

(i) the management or policies of a financial institution[;]; or [~~over~~]

- (ii) the election of a majority of the directors or trustees of an institution;
- (b) vote 20% or more of any class of voting securities of a financial institution by an individual; or
- (c) vote more than 5% of any class of voting securities of a financial institution by a person other than an individual.
- (6) "Credit union" means a cooperative, nonprofit association incorporated under:
 - (a) Chapter 9, Utah Credit Union Act; or
 - (b) 12 U.S.C. Sec. 1751 et seq., Federal Credit Union Act, as amended.
- (7) "Department" means the Department of Financial Institutions.
- (8) "Depository institution" means a bank, savings and loan association, savings bank, industrial ~~[loan corporation]~~ bank, credit union, or other institution that:
 - (a) holds or receives deposits, savings, or share accounts~~[, or]~~;
 - (b) issues certificates of deposit~~[-]~~; or
 - (c) provides to its customers other depository accounts that are subject to withdrawal by checks, drafts, or other instruments or by electronic means to effect third party payments.
- (9) (a) "Depository institution holding company" means:
 - (i) a person other than an individual that:
 - (A) has control over any depository institution; or ~~[that]~~
 - (B) becomes a holding company of a depository institution under Section 7-1-703; or
 - (ii) a person other than an individual that the commissioner finds, after considering the specific circumstances, is exercising or is capable of exercising a controlling influence over a depository institution by means other than those specifically described in this section.
- (b) Except as provided in Section 7-1-703, a person is not a depository institution holding company solely because it owns or controls shares acquired in securing or collecting a debt previously contracted in good faith.
- (10) "Financial institution" means any institution subject to the jurisdiction of the department because of this title.
- (11) (a) "Financial institution holding company" means a person, other than an individual

that has control over any financial institution or any person that becomes a financial institution holding company under this chapter, including an out-of-state or foreign depository institution holding company.

(b) Ownership of a service corporation or service organization by a depository institution does not make that institution a financial institution holding company.

(c) A person holding 5% or less of the voting securities of a financial institution is rebuttably presumed not to have control of the institution.

(d) A trust company is not a holding company solely because it owns or holds 20% or more of the voting securities of a financial institution in a fiduciary capacity, unless the trust company exercises a controlling influence over the management or policies of the financial institution.

(12) "Foreign depository institution" means a depository institution chartered or authorized to transact business by a foreign government.

(13) "Foreign depository institution holding company" means the holding company of a foreign depository institution.

(14) "Home state" means:

(a) for a state chartered depository institution, the state that charters the institution;

(b) for a federally chartered depository institution, the state where the institution's main office is located; and

(c) for a depository institution holding company, the state in which the total deposits of all depository institution subsidiaries are the largest.

(15) "Host state" means:

(a) for a depository institution, a state, other than the institution's home state, where the institution maintains or seeks to establish a branch; and

(b) for a depository institution holding company, a state, other than the depository institution holding company's home state, where the depository institution holding company controls or seeks to control a depository institution subsidiary.

(16) "Industrial [~~loan corporation~~] bank" means a corporation or limited liability company

conducting the business of an industrial ~~[loan corporation]~~ bank under Chapter 8, Industrial Banks.

(17) "Industrial loan company" is as defined in Section 7-8-21.

~~[(17)]~~ (18) "Insolvent" means the status of a financial institution that is unable to meet its obligations as they mature.

~~[(18)]~~ (19) "Institution" means:

(a) a corporation[;];

(b) a limited liability company[;];

(c) a partnership[;];

(d) a trust[;];

(e) an association[;];

(f) a joint venture[;];

(g) a pool[;];

(h) a syndicate[;];

(i) an unincorporated organization[;]; or

(j) any form of business entity.

~~[(19)]~~ (20) "Institution subject to the jurisdiction of the department" means an institution or other person described in Section 7-1-501.

~~[(20)]~~ (21) "Liquidation" means the act or process of winding up the affairs of an institution subject to the jurisdiction of the department by realizing upon assets, paying liabilities, and appropriating profit or loss, as provided in Chapters 2 and 19.

~~[(21)]~~ (22) "Liquidator" means a person, agency, or instrumentality of this state or the United States appointed to conduct a liquidation.

~~[(22)]~~ (23) (a) "Member of a savings and loan association" means:

(i) a person holding a savings account of a mutual association;

(ii) a person borrowing from, assuming, or becoming obligated upon a loan or an interest in a loan held by a mutual association; or

(iii) any person or class of persons granted membership rights by the articles of

incorporation or the bylaws of an association.

(b) A joint and survivorship or other multiple owner or borrower relationship constitutes a single membership.

~~[(23)]~~ (24) "Negotiable order of withdrawal" means a draft drawn on a NOW account.

~~[(24)]~~ (25) (a) "NOW account" means a savings account from which the owner may make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

(b) A "NOW account" is not a demand deposit.

(c) Neither the owner of a NOW account nor any third party holder of an instrument requesting withdrawal from the account has a legal right to make withdrawal on demand.

~~[(25)]~~ (26) "Out-of-state" means, in reference to a depository institution or depository institution holding company, an institution or company whose home state is not Utah.

~~[(26)]~~ (27) "Person" means:

(a) an individual[;];

(b) a corporation[;];

(c) a limited liability company[;];

(d) a partnership[;];

(e) a trust[;];

(f) an association[;];

(g) a joint venture[;];

(h) a pool[;];

(i) a syndicate[;];

(j) a sole proprietorship[;];

(k) an unincorporated organization[;]; or

(l) any form of business entity.

~~[(27)]~~ (28) "Receiver" means a person, agency, or instrumentality of this state or the United States appointed to administer and manage an institution subject to the jurisdiction of the department in receivership, as provided in Chapters 2 and 19.

~~[(28)]~~ (29) "Receivership" means the administration and management of the affairs of an institution subject to the jurisdiction of the department to conserve, preserve, and properly dispose of the assets, liabilities, and revenues of an institution in possession, as provided in Chapters 2 and 19.

~~[(29)]~~ (30) "Savings account" means any deposit or other account at a depository institution that is not a transaction account.

~~[(30)]~~ (31) (a) "Savings and loan association" means any of the following subject to this title:

- (i) a mutual or capital stock savings association[;];
- (ii) a savings and loan association[;];
- (iii) a mutual or capital stock savings bank[;]; or
- (iv) a building and loan association [~~subject to this title, including~~].

(b) "Savings and loan association" includes the following as defined in Section 7-7-2:

- (i) all federal associations; and
- (ii) all out-of-state associations[; ~~as defined in Section 7-7-2~~].

~~[(31)]~~ (32) "Service corporation" or "service organization" means a corporation or other business entity owned or controlled by one or more financial institutions that is engaged or proposes to engage in business activities related to the business of financial institutions.

~~[(32)]~~ (33) "State" means, unless the context demands otherwise[;];

- (a) a state[;];
- (b) the District of Columbia[;]; or
- (c) the territories of the United States.

~~[(33)]~~ (34) "Subsidiary" means a business entity under the control of an institution.

~~[(34)]~~ (35) (a) "Transaction account" means a deposit, account, or other contractual arrangement in which a depositor, account holder, or other customer is permitted, directly or indirectly, to make withdrawals by:

- (i) check or other negotiable or transferable instrument[; ~~by~~];
- (ii) payment order of withdrawal[; ~~by~~];

(iii) telephone transfer~~[, by]~~;

(iv) other electronic means~~[-]~~; or ~~[by]~~

(v) any other means or device for the purpose of making payments or transfers to third persons.

(b) "Transaction account" includes:

- (i) demand deposits;
- (ii) NOW accounts;
- (iii) savings deposits subject to automatic transfers; and
- (iv) share draft accounts.

~~[(35)]~~ (36) "Trust company" means a person authorized to conduct a trust business, as provided in Chapter 5, Trust Business.

~~[(36)]~~ (37) "Utah depository institution" means a depository institution whose home state is Utah.

~~[(37)]~~ (38) "Utah depository institution holding company" means a depository institution holding company whose home state is Utah.

Section 2. Section **7-1-201** is amended to read:

7-1-201. Creation of department -- Organization.

(1) There is created the Department of Financial Institutions that is responsible for the execution of the laws of this state relating to all financial institutions and other persons subject to this title, and relating to the businesses they conduct.

(2) The department organization includes:

~~[(1)]~~ (a) the commissioner of financial institutions, who shall be the chief executive officer of the department;

~~[(2)]~~ (b) the Board of Financial Institutions;

~~[(3)]~~ (c) the chief examiner;

~~[(4)]~~ (d) the supervisor of banks;

~~[(5)]~~ (e) the supervisor of savings and loan associations;

~~[(6)]~~ (f) the supervisor of industrial ~~[loan corporations]~~ banks;

[(7)] (g) the supervisor of credit unions; and
[(8)] (h) other supervisors, examiners, and personnel as may be required to carry out the duties, powers, and responsibilities of the department.

Section 3. Section **7-1-203** is amended to read:

7-1-203. Board of Financial Institutions.

(1) There is created a Board of Financial Institutions consisting of the commissioner and the following five members, who shall be qualified by training and experience in their respective fields and shall be appointed by the governor with the consent of the Senate:

- (a) one representative from the commercial banking business;
- (b) one representative from the savings and loan, consumer lending, mortgage brokerage, or escrow agency business;
- (c) one representative from the industrial [~~loan corporation~~] bank business;
- (d) one representative from the credit union business; and
- (e) one representative of the general public who, as a result of education, training, experience, or interest, is well qualified to consider economic and financial issues and data as they may affect the public interest in the soundness of the financial systems of this state.

(2) The commissioner shall act as chair.

(3) (a) All members of the board shall be residents of this state.

(b) No more than three members of the board may be from the same political party.

(c) No more than two members of the board may be connected with the same financial institution or its holding company.

(d) A member may not participate in any matter involving any institution with which the member has a conflict of interest.

(4) (a) Except as required by Subsection (4)(b), the terms of office shall be four years each expiring on July 1.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) All members serve until their respective successors are appointed and qualified.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) (a) The board shall meet at least quarterly on a date it sets.

(b) The commissioner or any two members of the board may call additional meetings.

(c) Four members constitute a quorum for the transaction of business.

(d) Actions of the board require a vote of a majority of those present.

(e) Meetings of the board and records of its proceedings are subject to Title 52, Chapter 4, Open and Public Meetings, except for discussion of confidential information pertaining to a particular financial institution.

(6) (a) Each member of the board shall, by sworn or written statement filed with the commissioner, disclose any position of employment or ownership interest that the member has with respect to any institution subject to the jurisdiction of the department.

(b) The member shall:

(i) file ~~[this]~~ the statement required by this Subsection (6) when first appointed to the board; and ~~[shall]~~

(ii) subsequently file amendments to the statement if there is any material change in the matters covered by the statement.

(7) (a) (i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the board at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee members may decline to receive per diem and

expenses for their service.

(8) The board shall advise the commissioner with respect to:

(a) the exercise of ~~[his]~~ the commissioner's duties, powers, and responsibilities under this title; and

(b) the organization and performance of the department and its employees.

(9) The board shall recommend annually to the governor and the Legislature a budget for the requirements of the department in carrying out its duties, functions, and responsibilities under this title.

Section 4. Section **7-1-207** is amended to read:

7-1-207. Supervisor of industrial banks -- Responsibilities.

(1) The commissioner shall designate an examiner as supervisor of industrial ~~[loan corporations]~~ banks who shall be sufficiently qualified by training and experience in the business of industrial ~~[loan corporations]~~ banks or other financial institutions or as an employee of a state or federal agency supervising financial institutions to perform the duties of the office.

(2) (a) The supervisor of industrial ~~[loan corporations]~~ banks is responsible, subject to the direction and control of the commissioner, for the general supervision and examination of all industrial ~~[loan corporations]~~ banks subject to the jurisdiction of the department and other institutions as assigned.

(b) The supervisor shall:

(i) assist and advise the commissioner in the execution of the laws of this state relating to these institutions~~[-];~~ and ~~[shall]~~

(ii) perform other duties prescribed in this title or assigned by the commissioner.

Section 5. Section **7-1-301** is amended to read:

7-1-301. Powers and duties of commissioner -- Rulemaking.

Without limiting the other powers, duties, and responsibilities specified in this title, the commissioner has all the functions, powers, duties, and responsibilities with respect to institutions, persons, or businesses subject to the jurisdiction of the department contained in this title, including all of the functions, powers, duties, and responsibilities described in Subsections (1)

through (15).

(1) The commissioner may govern the administration and operation of the department.

(2) The commissioner may supervise the conduct, operation, management, examination, and statements and reports of examinations of financial institutions and other persons subject to the jurisdiction of the department.

(3) (a) The commissioner may authorize a state chartered depository institution to engage in any activity it could engage in, and to grant to that institution all additional rights, powers, privileges, benefits, or immunities it would possess, if it were chartered under the laws of the United States.

(b) The commissioner may authorize a depository institution chartered by this state to engage in any activity that a Utah branch of an out-of-state depository institution of the same class can engage in, and to grant to the Utah institution all additional rights, powers, privileges, benefits, or immunities it needs to engage in the activity.

(c) In granting authority under this Subsection (3), the commissioner shall consider:

(i) the need for competitive equality between institutions chartered by this state and institutions operating in this state that are chartered by another state or by the federal government; and

(ii) the adverse effect on shareholders, members, depositors, and other customers of financial institutions chartered by this state if equal power and protection of those institutions, compared with federally chartered or out-of-state institutions of the same class, are not promptly available.

(4) The commissioner may safeguard the interest of shareholders, members, depositors, and other customers of institutions and other persons subject to the jurisdiction of the department.

(5) (a) The commissioner may establish criteria consistent with this title to be applied in granting applications for approval of:

(i) a new institution;

(ii) a new branch;

(iii) the relocation of an office or branch;

- (iv) a merger;
- (v) a consolidation;
- (vi) a change in control of an institution or other person subject to the jurisdiction of the department; and
- (vii) other applications specified in this title.

(b) The criteria established under Subsection (5)(a) may not be applied to make it more difficult for a state chartered institution to obtain approval of an application than for a federally chartered institution in the same class to obtain approval from the appropriate federal regulatory agency or administrator.

(6) (a) The commissioner may protect the privacy of the records of any institution subject to the jurisdiction of the department pertaining to a particular depositor or other customer of the institution. Rules adopted under this Subsection (6) shall be consistent with federal laws and regulations applicable to the institution.

(b) Any institution that consents to produce records or that is required to produce records in compliance with a subpoena or other order of a court of competent jurisdiction or in compliance with an order obtained pursuant to Sections 78-27-45 through 78-27-50.5 shall be reimbursed for the cost of retrieval and reproduction of the records by the party seeking the information. The commissioner may by rule establish the rates and conditions under which reimbursement is made.

(7) (a) The commissioner may classify all records kept by institutions subject to the jurisdiction of the department and to prescribe the period for which each class of records is retained.

(b) Rules adopted under this Subsection (7) for any class of financial institution shall be consistent with federal laws and regulations applicable to the class.

~~[(b)]~~ (c) Rules made under this Subsection (7)~~[(a)]~~ shall provide that:

(i) An institution may dispose of any record after retaining it for the period prescribed by the commissioner for retention of records of its class. If an institution disposes of a record after the prescribed period, the institution has no duty to produce it in any action or proceeding and is

not liable to any person by reason of that disposition.

(ii) Any institution may keep records in its custody in the form of microfilm or equivalent reproduction. Any such reproduction shall have the same force and effect as the original and shall be admissible into evidence as if it were the original.

~~[(c)]~~ (d) In adopting rules under this Subsection (7), the commissioner shall take into consideration:

(i) actions at law and administrative proceedings in which the production of the records might be necessary or desirable;

(ii) state and federal statutes of limitation applicable to the actions or proceedings;

(iii) the availability from other sources of information contained in these records; and

(iv) other matters the commissioner considers pertinent in formulating rules that require institutions to retain their records for as short a period as commensurate with the interest in having the records available of:

(A) customers, members, depositors, and shareholders of the institutions; and

(B) the people of this state.

(8) (a) The commissioner may establish reasonable classes of depository and other financial institutions including separate classes for:

(i) savings and loan associations and related institutions~~[-];~~

(ii) banks and related institutions~~[-];~~

(iii) credit unions~~[-];~~ and

(iv) industrial ~~[loan corporations]~~ banks.

(b) If the restrictions or requirements the commissioner imposes are not more stringent than those applicable under federal law or regulation to federally chartered institutions of the same class, the commissioner may establish the following for each class in a manner consistent with this title:

(i) eligible classes and types of investments for the deposits and other funds of those financial institutions;

(ii) minimum standards, in amounts sufficient to protect depositors and other creditors,

for the amount and types of capital required to engage in the business conducted by each class or to obtain a license or to establish a branch or additional office of an institution of each class;

(iii) eligible obligations, reserves, and other accounts to be included in the computation of capital;

(iv) minimum liquidity requirements for financial institutions within each class in amounts sufficient to meet the demands of depositors and other creditors for liquid funds;

(v) limitations on the amount and type of borrowings by each class of financial institution in relation to the amount of its capital and the character and condition of its assets and its deposits and other liabilities;

(vi) limitations on the amount and nature of loans and extensions of credit to any person or related persons by each class of financial institution in relation to the amount of its capital; and

(vii) limitations on the amount and nature of loans and extensions of credit by a financial institution or other person within each class to an executive officer, director, or principal shareholder of:

(A) the institution or other person;

(B) any company of which the institution or other person is a subsidiary;

(C) any subsidiary of the institution or other person;

(D) any affiliate of the institution; and

(E) a company controlled by an executive officer, director, or principal shareholder of the institution.

(9) The commissioner may define unfair trade practices of financial institutions and other persons subject to the jurisdiction of the department and to prohibit or restrict these practices.

(10) The commissioner may establish reasonable standards to promote the fair and truthful advertising of:

(a) services offered by a financial institution;

(b) the charges for the services advertised under Subsection (10)(a);

(c) the interest or other compensation to be paid on deposits or any debt instrument offered for sale by the institution;

- (d) the nature and extent of any:
 - (i) insurance on deposits[;];
 - (ii) savings accounts[;];
 - (iii) share accounts[;];
 - (iv) certificates of deposit[;];
 - (v) time deposit accounts[;];
 - (vi) NOW accounts[;];
 - (vii) share draft accounts[;];
 - (viii) transaction accounts[;]; or
 - (ix) any evidence of indebtedness issued, offered for sale, offered to sell or sold by any financial institution or other person subject to the jurisdiction of the department; and
- (e) the safety or financial soundness of any financial institution or other person subject to the jurisdiction of the department.

(11) The commissioner may define what constitutes an impairment of capital for each class of financial institution or other person subject to the jurisdiction of the department.

(12) The commissioner may designate days on which depository institutions are closed in accordance with Section 7-1-808.

(13) The commissioner may regulate the issuance, advertising, offer for sale, and sale of a security to the extent authorized by Section 7-1-503.

(14) The commissioner may require the officers of any institution or other person subject to the commissioner's jurisdiction to open and keep a standard set of books, computer records, or both for the purpose of keeping accurate and convenient records of the transactions and accounts of the institution in a manner to enable the commissioner, supervisors, and department examiners to readily ascertain the institution's true condition. These requirements shall be consistent with generally accepted accounting principles for financial institutions.

(15) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commissioner may adopt and issue rules consistent with the purposes and provisions of this title, and may revise, amend, or repeal the rules adopted.

Section 6. Section **7-1-324** is amended to read:

7-1-324. Debt cancellation agreements and debt suspension agreements.

(1) As used in this section:

(a) "Class of depository institution" means a class consisting of:

(i) banks;

(ii) credit unions;

(iii) industrial [~~loan corporations~~] banks;

(iv) savings and loan associations; or

(v) wholly owned subsidiaries of a depository institution listed in this Subsection (1)(a).

(b) "Debt cancellation agreement" is as defined in Section 31A-21-109.

(c) "Debt suspension agreement" is as defined in Section 31A-21-109.

(2) Subject to the other provisions of this section, the commissioner may by rule, made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

(a) authorize any member of a class of depository institution that is subject to the jurisdiction of the department to issue;

(i) a debt cancellation agreement; or

(ii) a debt suspension agreement; and

(b) regulate the issuance of a debt cancellation agreement or a debt suspension agreement issued in this state by a member of a class of depository institution.

(3) (a) Any rule adopted by the commissioner under this section as applied to a class of depository institution shall be substantially similar to any federal regulation applying to the same class of depository institution.

(b) Any rule adopted by the commissioner applicable to a class of depository institution described in this Subsection (3)(b) shall be substantially similar to any federal regulation applicable to a bank if no federal regulation authorizes or regulates the issuance of a debt cancellation agreement or debt suspension agreement for that class of depository institution.

(4) (a) An out-of-state depository institution may issue a debt cancellation agreement or debt suspension agreement in this state if:

(i) the home state of the out-of-state depository institution authorizes and regulates the issuance of a debt cancellation agreement or debt suspension agreement by the out-of-state depository institution; and

(ii) subject to Subsection (4)(b), the out-of-state depository institution complies with regulations from the out-of-state depository institution's home state that regulate the issuance of a debt cancellation agreement or a debt suspension agreement.

(b) Notwithstanding Subsection (4)(a), an out-of-state depository institution described in Subsection (4)(a) shall comply with rules adopted by the commissioner under this section that regulate the issuance of a debt cancellation agreement or a debt suspension agreement in this state by the class of depository institution to which the out-of-state depository institution belongs if the regulations of the out-of-state depository institution's home state do not provide at least the same level of protection with respect to a debt cancellation agreement or debt suspension agreement as the rules adopted by the commissioner under this section with respect to the same class of depository institution:

- (i) for the safety and soundness of the depository institution; and
- (ii) for consumer protections for the borrowers of the depository institution.

Section 7. Section **7-1-503** is amended to read:

7-1-503. Regulation of sale by financial institution of its securities -- Solicitation of deposit accounts restricted -- Violations.

(1) As used in this section, "security" has the same meaning as in Section 61-1-13, except that "security" does not include:

(a) a certificate of deposit or similar instrument issued by:

- (i) a bank[-];
- (ii) a savings and loan association[-];
- (iii) a credit union[-]; or
- (iv) an industrial [~~loan corporation~~] bank;

(b) a loan participation, letter of credit, or other form of indebtedness incurred in the ordinary course of business by:

(i) a bank[;];
(ii) a savings and loan association[;];
(iii) a credit union[;]; or
(iv) an industrial [~~loan corporation~~] bank; or
(c) (i) a promissory note or other evidence of indebtedness and the underlying security for it[;];

(ii) a lease of personal property[;];
(iii) a contract to sell real or personal property[;]; or
(iv) any other loan or investment sold by a depository institution in the secondary market.

(2) A person subject to the jurisdiction of the department may not, directly or indirectly, issue, offer, offer to sell, offer for sale, or sell any security of which it is the issuer without:

- (a) the prior approval of the commissioner;
- (b) payment of the fee prescribed in Section 7-1-401; and
- (c) complying with the rules of the department with respect to securities.

(3) (a) A person not otherwise subject to the jurisdiction of the department may not issue, offer to sell, offer for sale, or sell, or otherwise solicit the general public to deposit in any account or to purchase or invest in any instrument creating or evidencing a debtor-creditor relationship, if the account or instrument is represented to be an account with or an instrument issued by a financial institution subject to the jurisdiction of the department, without:

- (i) the prior approval of the commissioner;
- (ii) payment of the fee prescribed in Section 7-1-401; and
- (iii) complying with the rules of the department with respect to securities.

(b) Subsection (3)(a) does not apply to:

(i) insurance companies that have been issued certificates of authority under Title 31A, Insurance Code[;];

(ii) brokers or dealers registered under;

(A) Title 61, Chapter 1, Utah Uniform Securities Act[;]; or

(B) the federal Securities Exchange Act of 1934[;]; or

(iii) nondepository institutions to the extent that the securities are not offered for sale or sold through or by agents, representatives, officers, or employees of an affiliated Utah depository institution~~[-];~~ or

(iv) out-of-state depository institution with at least one branch in Utah or otherwise offered for sale or sold on its premises.

(4) The rules of the department;

(a) shall, at a minimum, require registration with the department; and

(b) may require the use of an offering circular containing such material information as to the nature of the security and the financial condition of the issuer as the commissioner may require to protect the public interest.

(5) The provisions of Sections 61-1-21, 61-1-21.1, and 61-1-22 apply to violations of this section.

Section 8. Section **7-1-701** is amended to read:

7-1-701. Representation and transacting business as financial institution restricted

-- Restricted names -- Penalty.

(1) As used in this section, "transact business" includes:

(a) advertising;

(b) representing oneself in any manner as being engaged in transacting business;

(c) registering an assumed name under which to transact business; or

(d) using an assumed business name, sign, letterhead, business card, promotion, or other indication that one is transacting business.

(2) Unless authorized by the department or an agency of the federal government to do so, it is unlawful for any person to:

(a) transact business as a:

(i) bank;

(ii) savings and loan association;

(iii) savings bank;

(iv) industrial [~~loan corporation~~] bank;

- (v) credit union;
- (vi) trust company; or
- (vii) other financial or depository institution; or
- (b) engage in any other activity subject to the jurisdiction of the department.

(3) (a) Except as provided in Subsections (3)(b) through (d), only the following may transact business in this state under a name that includes "bank," "banker," "banking," "banque," "banc," "banco," "bancorp," "bancorporation," any derivative of these words, or any other word or combination of words reasonably identifying the business of a bank:

- (i) a national bank;
- (ii) a bank authorized to do business under Chapter 3, Banks;
- (iii) a bank holding company; or
- (iv) an industrial [~~loan corporation authorized to:~~] bank.
[~~(A) conduct business under Chapter 8, Industrial Loan Corporations; and~~]
[~~(B) accept or hold deposit accounts insured by a federal deposit insurance agency.~~]

(b) A person authorized to operate in this state as a credit card bank, as defined in Section 7-3-3[;]:

- (i) may transact business under the name "credit card bank"; and
- (ii) may not transact business under the name of "bank" unless it is immediately preceded by "credit card."

(c) A nonbank subsidiary of a bank holding company may transact business under a name restricted in Subsection (3)(a) if the name:

- (i) is also part of the name of its parent holding company; or
- (ii) is used for a group of subsidiaries of the parent holding company.

(d) The Utah Bankers Association or other bona fide trade association of authorized banks may transact its affairs in this state under a name restricted under Subsection (3)(a) if it does not operate and does not hold itself out to the public as operating a depository or financial institution.

(4) (a) Except as provided in Subsection (4)(b), only the following may transact business

in this state under a name that includes "savings association," "savings and loan association," "building and loan association," "building association," any derivative of these words, or any other word or combination of words reasonably identifying the business of a savings and loan association:

- (i) a federal savings and loan association;
- (ii) a federal savings bank; or
- (iii) a savings and loan association authorized to do business under Chapter 7, Savings and Loan Associations Act.

(b) A national bank may transact business under a name restricted in Subsection (4)(a) if the restricted words are part of the bank's corporate name.

(5) Only the following may transact business under the name "savings bank":

- (a) a depository institution listed in Subsection (3)(a);
- (b) a depository institution listed in Subsection (4)(a); or
- (c) a depository institution authorized under state law to operate in this state as a savings

bank.

(6) (a) Only an industrial loan ~~[corporation]~~ company authorized to do business under Chapter 8, Industrial ~~[Loan Corporations,]~~ Banks, to the extent permitted by Section 7-8-21, may transact business in this state under a name that includes "industrial loan ~~[corporation]~~ company," "ILC," ~~["thrift,"]~~ or any other word, combination of words, or abbreviation reasonably identifying the business of an industrial loan ~~[corporation]~~ company.

(b) Only an industrial bank authorized to do business under Chapter 8, Industrial Banks, may transact business in this state under a name that includes "industrial bank," "thrift," or any other word, combination of words, or abbreviation reasonably identifying the business of an industrial bank.

(7) (a) Except as provided in Subsection (7)(b), only a credit union authorized to do business under the laws of the United States or Chapter 9, Utah Credit Union Act, may transact business in this state under a name that includes "credit union" or any other word or combination of words reasonably identifying the business of a credit union.

(b) The restriction in Subsection (7)(a) does not apply to the Utah League of Credit Unions, any credit union chapter, or any other association affiliated with the Utah League of Credit Unions that restricts its services primarily to credit unions.

(8) (a) Except as provided in Subsection (8)(b), only a person granted trust powers under Chapter 5, Trust Business, may transact business in this state under a name that includes "trust," "trustee," "trust company," or any other word or combination of words reasonably identifying the business of a trust company.

(b) A business entity organized as a business trust, as defined in Section 7-5-1, may use "business trust" in its name if it does not hold itself out as being a trust company.

(9) The restrictions of Subsections (3) through (8) do not apply to:

(a) the name under which an out-of-state depository institution operates a loan production office in this state, if the commissioner approves the name as not being reasonably likely to mislead the public;

(b) the name under which a service organization of a financial institution transacts business, if the commissioner approves the name as not being reasonably likely to mislead the public;

(c) the name under which a subsidiary of a depository or financial institution transacts business, if the commissioner approves the name as not being reasonably likely to mislead the public; or

(d) a trade association or other nonprofit organization composed of members of a particular class of financial institutions using words applicable to that class.

(10) (a) Upon written request, the commissioner may grant an exemption to this section if the commissioner finds that the use of an otherwise restricted name or word is not reasonably likely to cause confusion or lead the public to believe that the person requesting the exemption is a depository or financial institution or is conducting a business subject to the jurisdiction of the department.

(b) In granting an exemption under Subsection (10)(a), the commissioner may restrict or condition the use of the name or word or the activities of the person or business as the

commissioner considers necessary to protect the public.

(11) (a) Each person~~[, corporation, association, or other business entity]~~ and each principal and officer of a business entity violating this section is guilty of a class A misdemeanor. Each day of violation constitutes a separate offense.

(b) In addition to a criminal penalty imposed under Subsection (11)(a), the commissioner may issue a cease and desist order against a person violating this section. The commissioner may impose a civil penalty of up to \$500 for each day the person fails to comply with the cease and desist order.

Section 9. Section **7-1-810** is enacted to read:

7-1-810. Limited liability companies.

(1) Notwithstanding any other provision of this title, if the conditions of this section are met, the following may be organized as or convert to a limited liability company under Title 48, Chapter 2c, Utah Revised Limited Liability Company Act:

(a) an industrial bank chartered under Chapter 8, Industrial Banks;

(b) an industrial loan company as defined in Section 7-8-21; or

(c) any of the following if the institution is an S-Corporation, as defined in Section 1361, Internal Revenue Code, immediately before becoming a limited liability company:

(i) a bank chartered under Chapter 3, Banks;

(ii) a savings and loan association chartered under Chapter 7, Savings and Loan Associations Act; or

(iii) a depository institution holding company.

(2) (a) Before an institution described in Subsection (1) may organize as or convert to a limited liability company, the institution shall obtain approval of the commissioner.

(b) (i) To obtain the approval under this section from the commissioner, the institution shall file a request for approval with the commissioner at least 30 days before the day on which the institution becomes a limited liability company.

(ii) If the commissioner does not disapprove the request for approval within 30 days from the day on which the commissioner receives the request, the request is considered approved.

(iii) When taking action on a request for approval filed under this section, the commissioner may:

(A) approve the request;

(B) approve the request subject to terms and conditions the commissioner considers necessary; or

(C) disapprove the request.

(3) To approve a request for approval, the commissioner shall find:

(a) for an institution described in Subsection (1) that is required to be insured by a federal deposit insurance agency, that the institution:

(i) will operate in a safe and sound manner;

(ii) has the following characteristics:

(A) the institution is not subject to automatic termination, dissolution, or suspension upon the happening of some event other than the passage of time;

(B) the exclusive authority to manage the institution is vested in a board of managers or directors that:

(I) is elected or appointed by the owners;

(II) is not required to have owners of the institution included on the board;

(III) possesses adequate independence and authority to supervise the operation of the institution; and

(IV) operates with substantially the same rights, powers, privileges, duties, and responsibilities as the board of directors of a corporation;

(C) neither state law, nor the institution's operating agreement, bylaws, or other organizational documents provide that an owner of the institution is liable for the debts, liabilities, and obligations of the institution in excess of the amount of the owner's investment; and

(D) (I) neither state law, nor the institution's operating agreement, bylaws, or other organizational documents require the consent of any other owner of the institution in order for any owner to transfer an ownership interest in the institution, including voting rights; and

(II) the institution is able to obtain new investment funding if needed to maintain adequate

capital; and

(iii) is able to comply with all legal and regulatory requirements for an insured depository institution under applicable federal and state law; and

(b) for an institution described in Subsection (1) that is not required to be insured by a federal deposit insurance agency, that the institution will operate in a safe and sound manner.

(4) (a) An institution listed in Subsection (3)(a) that is organized as a limited liability company shall maintain the characteristics listed in Subsection (3)(a)(ii) during such time as it is authorized to conduct business under this title as a limited liability company.

(b) Notwithstanding Subsection (3)(a)(ii)(A), an institution listed in Subsection (3)(a) that is a limited liability company may be voluntarily dissolved by its members:

(i) in accordance with Title 48, Chapter 2c, Part 12, Dissolution; and

(ii) with the prior written approval of the commissioner.

(5) All rights, privileges, powers, duties, and obligations of an institution described in Subsection (1) that is organized as a limited liability company and its members and managers shall be governed by Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, except as otherwise provided in this title.

(6) Unless the context requires otherwise, for the purpose of applying this title to an institution described in Subsection (1) that is organized as a limited liability company:

(a) a citation to Title 16, Chapter 10a, Utah Revised Business Corporation Act, includes the equivalent citation to Title 48, Chapter 2c, Utah Revised Limited Liability Company Act;

(b) "articles of incorporation" includes a limited liability company's articles of organization as that term is used in Section 48-2c-403;

(c) "board of directors" includes any of the following of a limited liability company:

(i) all managers;

(ii) all directors; or

(iii) one or more persons who have, with respect to an institution described in Subsection (1), authority substantially similar to that of a board of directors of a corporation;

(d) "bylaws" includes a limited liability company's operating agreement as that term is

defined in Section 48-2c-102:

(e) "corporation" includes a limited liability company organized under Title 48, Chapter 2c, Utah Revised Limited Liability Company Act;

(f) "director" includes any of the following of a limited liability company:

(i) a manger;

(ii) a director; or

(iii) other person who has with respect to the institution described in Subsection (1), authority substantially similar to that of a director of a corporation;

(g) "dividend" includes distributions made by a limited liability company under Title 48, Chapter 2c, Part 10, Distributions;

(h) "incorporator" includes the organizers of a limited liability company as provided in Title 48, Chapter 2c, Part 4, Formation;

(i) "officer" includes any of the following of an institution described in Subsection (1):

(i) an officer; or

(ii) other person who has with respect to the institution described in Subsection (1) authority substantially similar to that of an officer of a corporation;

(j) "security," "shares," or "stock" of a corporation includes:

(i) a membership interest in a limited liability company as provided in Title 48, Chapter 2c, Part 7, Members; and

(ii) any certificate or other evidence of an ownership interest in a limited liability company; and

(k) "stockholder" or "shareholder" includes an owner of an interest in an institution described in Subsection (1) including a member as provided in Title 48, Chapter 2c, Part 7, Members.

(7) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commissioner shall make rules governing the form of a request for approval filed under this section.

Section 10. Section **7-3-3** is amended to read:

7-3-3. "Banking business" defined -- Credit card banks -- Insurance of deposit accounts.

(1) (a) Except as provided under Subsection (1)(b), a person is considered to be conducting a banking business and is a bank subject to the provisions of this title that are applicable to banks if the person is authorized under the laws of this state, another state, the United States, the District of Columbia, or any territory of the United States to accept deposits from the public and to conduct such other business activities as may be authorized by statute or by the commissioner in accordance with Subsection 7-3-10(2).

(b) A person is not considered to be a bank subject to the provisions of this title that are applicable to banks if the person is authorized to conduct the business of:

(i) a federal savings and loan association [or];

(ii) a federal savings bank[;];

(iii) a savings and loan association [or] subject to Chapter 7, Savings and Loan Associations Act;

(iv) a savings bank subject to Chapter 7, Savings and Loan Associations Act;

(v) an industrial [~~loan corporation~~] bank subject to Chapter 8, Industrial Banks;

(vi) a federally chartered credit union[;]; or

(vii) a credit union subject to Chapter 9, Utah Credit Union Act.

(2) A person authorized to operate as a bank in this state may operate as a credit card bank if it:

(a) engages only in credit card operations;

(b) does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others;

(c) does not accept any savings or time deposits of less than \$100,000;

(d) maintains only one office that accepts deposits; and

(e) does not engage in the business of making commercial loans.

(3) All deposit accounts in banks or branches subject to the jurisdiction of the department shall be insured by the Federal Deposit Insurance Corporation or any successor to [it] the Federal

Deposit Insurance Corporation.

Section 11. Section **7-8-3** is amended to read:

7-8-3. Organization -- Authorization to conduct business -- Deposit insurance.

(1) Subject to Subsection (4), the commissioner may authorize a person described in Subsection (2) to conduct business as an industrial bank.

~~[(1)]~~ (2) (a) Each ~~[domestic corporation]~~ person organized to conduct the business of an industrial ~~[loan corporation]~~ bank in this state shall be organized under:

(i) Title 16, Chapter 10a, Utah Revised Business Corporation Act[-]; or

(ii) in accordance with Section 7-1-810, Title 48, Chapter 2c, Utah Revised Limited Liability Company Act.

(b) A person may not conduct business as an industrial bank authorized under this chapter to conduct business as an industrial bank in any form of entity other than those provided in Subsection (2)(a).

(3) (a) All rights, privileges, powers, duties, and obligations of ~~[the]~~ a corporation authorized to conduct business as an industrial bank and its officers, directors, and stockholders shall be governed by Title 16, Chapter 10a, Utah Revised Business Corporation Act, except as otherwise provided in this title.

(b) All rights, privileges, powers, duties, and obligations of a limited liability company authorized to conduct business as an industrial bank and its members and managers shall be governed by Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, except as otherwise provided in this title.

~~[(2) The commissioner may authorize a domestic corporation to conduct business as an industrial loan corporation.]~~

(4) (a) An industrial bank is authorized to receive and hold deposits.

(b) An industrial bank may not conduct business under this chapter as an industrial bank unless the industrial bank obtains insurance from the Federal Deposit Insurance Corporation or a successor federal deposit insurance entity for any deposits received or held by the industrial bank.

Section 12. Section **7-8-5** is amended to read:

7-8-5. Acquisition of own stock restricted -- Capital requirements.

(1) (a) An industrial [~~loan corporation~~] bank may not accept as collateral, or be a purchaser of, shares of its own capital stock, unless taking the shares as collateral or purchasing them is necessary to prevent loss upon a debt previously contracted in good faith.

(b) All shares of stock acquired under this Subsection (1) by the industrial [~~loan corporation~~] bank through any purchase, foreclosure, judgment, or otherwise shall be sold within 12 months from the date of acquisition.

(c) The par value of all the shares held after acceptance or purchase may not exceed 10% of the capital and surplus of the industrial [~~loan corporation~~] bank.

(2) (a) Each industrial [~~loan corporation~~] bank accepting or holding deposits shall maintain the minimum amount of capital required by its federal deposit insurer.

(b) The commissioner may require a greater amount of capital if [~~he~~] the commissioner determines that it is necessary to protect the interests of:

- (i) the depositors and other customers of the industrial [~~loan corporation~~] bank; and
- (ii) the public.

~~[(3) An industrial loan corporation may accept or hold deposits only if its accounts are insured by a federal deposit insurance agency.]~~

Section 13. Section **7-8-7** is amended to read:

7-8-7. Reports to commissioner.

Each industrial [~~loan corporation~~] bank shall file reports of its condition in accordance with Section 7-1-318.

Section 14. Section **7-8-11** is amended to read:

7-8-11. Dividends.

(1) The board of directors of an industrial [~~loan corporation authorized to accept deposits~~] bank may declare a dividend out of the net profits of the [~~corporation~~] industrial bank after providing for all expenses, losses, interest, and taxes accrued or due from the [~~corporation~~] industrial bank in accordance with this section and subject to Section 7-8-12.

(2) The [~~corporation~~] industrial bank shall transfer to a surplus fund at least 10% of its

net profits before dividends for the period covered by the dividend, until the surplus reaches 100% of its capital stock.

(3) Any amount paid from the [~~corporation's~~] industrial bank's net earnings into a fund for the retirement of any debenture capital or preferred stock for the period covered by the dividend is considered an addition to its surplus fund if, upon the retirement of the debenture capital or preferred stock, the amount paid into the retirement fund for the period may be properly carried to the surplus fund of the [~~corporation~~] industrial bank. In this case the industrial [~~loan corporation~~] bank shall transfer to the surplus fund the amount paid into the retirement fund.

Section 15. Section **7-8-12** is amended to read:

**7-8-12. Charge off of losses sustained on receivables and operating losses --
Replenishment of surplus account.**

(1) (a) Losses sustained on receivables by an industrial [~~loan corporation authorized to accept deposits~~] bank shall be charged first to the [~~corporation's~~] industrial bank's reserve for losses and then to its current income.

(b) Operating losses shall be charged first to the [~~corporation's~~] industrial bank's current income, next to undivided profits and then, after undivided profits have been exhausted, to the surplus account.

(2) A charge to the [~~corporation's~~] industrial bank's surplus account shall be replenished from net profits or capital contributions. The [~~corporation~~] industrial bank may declare or pay a dividend only with the written permission of the commissioner until its surplus account reaches an amount prescribed by the commissioner in writing.

Section 16. Section **7-8-13** is amended to read:

7-8-13. Real estate acquisition, holding, and conveyance.

An industrial [~~loan corporation~~] bank may purchase, hold, and convey real estate, other than premises used in the conduct of its business, only for the purposes and in a manner prescribed by rule.

Section 17. Section **7-8-14** is amended to read:

7-8-14. Investment in property used in conduct of business.

(1) An industrial [~~loan corporation~~] bank may invest in premises, equipment, and other property used in conducting its own business, as the board of directors may approve by resolution. This property may include:

(a) real property and any interest in real property, furniture, fixtures, and equipment for use in carrying on its own business; and

(b) the stock, bonds, debentures, or other obligations of any subsidiary or affiliate whose exclusive activity is the ownership and management of property used in conducting the industrial [~~loan corporation's~~] bank's business.

(2) The amount of these investments may not exceed 50% of the industrial [~~loan corporation's~~] bank's total capital, unless the commissioner approves a higher amount in writing.

Section 18. Section **7-8-15** is amended to read:

7-8-15. Bad debts.

(1) All demand and matured debts due to any industrial [~~loan corporation~~] bank on which interest is past due and has not been paid for a period of six months, unless they are well secured and in the process of collection, are considered bad debts and shall be charged off to the profit and loss account.

(2) The [~~corporation~~] industrial bank shall maintain in its files documentation to support its evaluation of the security and monthly reports of its collection efforts and a plan of collection.

Section 19. Section **7-8-16** is amended to read:

7-8-16. Registration of industrial bank holding company -- Filing and contents of statement -- Exemptions -- Rules.

(1) Each industrial [~~loan corporation~~] bank holding company shall register with the department by filing a registration statement in a form prescribed by the commissioner. The statement shall include:

(a) the name, address, and principal occupation of each officer and director of the registrant;

(b) a statement of financial condition as of a date not more than six months prior to the date of registration;

- (c) a certificate of good standing in the state in which the registrant is incorporated; and
- (d) evidence that the company is authorized to transact business in this state.

(2) (a) A person may not form an industrial [~~loan corporation~~] bank holding company, unless it:

- (i) is authorized to do so by the commissioner; and
- (ii) is registered with the department as provided in Subsection (1).

(b) An applicant for authorization to form a holding company shall file an application in a form prescribed by the commissioner by rule.

(3) The commissioner may exempt an industrial [~~loan corporation~~] bank holding company in whole or in part from registration if it is:

(a) a bank holding company or savings and loan holding company subject to federal regulation;

(b) a person that is a holding company only because [~~it~~] the person owns or controls voting shares of an industrial [~~loan corporation~~] bank or holding company acquired in connection with the underwriting of securities if [~~it~~] the person holds these shares no longer than 120 days, unless the commissioner approves a longer period to permit their sale on a reasonable basis;

- (c) a person exempt from the jurisdiction of the department under Section 7-1-502; or
- (d) a person exempted in writing by the commissioner or by rule.

(4) The commissioner may adopt rules with respect to industrial [~~loan corporation~~] bank holding companies as are necessary to protect:

- (a) depositors[;];
- (b) other creditors[;];
- (c) the public[;]; and
- (d) the financial system of the state.

Section 20. Section **7-8-19** is amended to read:

7-8-19. Meetings of the board of directors.

(1) A quorum of the board of directors of each industrial [~~loan corporation~~] bank shall meet at least once each quarter.

- (2) Minutes of each meeting of the board of directors shall be:
 - (a) kept by the secretary of the [~~corporation~~] industrial bank; and
 - (b) maintained at the head office of the [~~corporation~~] industrial bank.

Section 21. Section **7-8-20** is amended to read:

7-8-20. Limitations on loans to one borrower -- Exceptions -- Rules.

(1) Except as provided in this section, the total loans and extensions of credit by any industrial [~~loan corporation~~] bank to any person outstanding at any one time may not exceed 15% of the industrial [~~loan corporation's~~] bank's total capital.

(2) Subsection (1) does not apply to an extension of credit that is subject to, or expressly exempted from, a federal statute or federal regulation limiting the amount of total loans and credit that may be extended to any person or group of persons.

(3) The commissioner may by rule:

(a) exempt from Subsection (1) any class of loans or class of extensions of credit that are adequately secured or are not otherwise a risk to the safe and sound operation of an industrial [~~loan corporation~~] bank;

(b) define terms and phrases necessary to interpret and implement this section;

(c) adopt standards for aggregating or segregating loans to the same or different persons;

(d) describe records required to be maintained;

(e) require specific actions to be taken by an institution's board of directors or executive officers; and

(f) prescribe other actions necessary to interpret and implement this section.

Section 22. Section **7-8-21** is enacted to read:

7-8-21. Application of chapter to industrial loan companies.

(1) As used in this section, "industrial loan company" is a person that on the effective date of this bill is:

(a) authorized to conduct business under this chapter; and

(b) not authorized to hold or receive deposits.

(2) An industrial loan company may operate as an industrial bank under this chapter

except that the industrial loan company:

(a) may not hold or receive deposits without:

(i) the prior written approval of the commissioner; and

(ii) obtaining insurance from the Federal Deposit Insurance Corporation or a successor federal deposit insurance entity;

(b) may not engage in any conduct authorized by this title that is conditioned on the industrial loan company being a depository institution without meeting the conditions described in Subsections (2)(a)(i) and (ii); and

(c) may not use a term listed in Subsection 7-1-701(3) in its name without meeting the conditions described in Subsections (2)(a)(i) and (ii).

(3) If a person is not authorized to conduct business under this chapter on the effective date of this bill, that person may not be considered an industrial loan company under this section.

Section 23. Section **9-2-1923** is amended to read:

9-2-1923. Permissible investments.

Investments by designated investors in the Utah fund of funds are permissible investments under applicable laws of the state for:

- (1) state-chartered banks;
- (2) state-chartered savings and loan associations;
- (3) state-chartered credit unions;
- (4) state-chartered industrial [~~loan corporations~~] banks; and
- (5) domestic insurance companies.

Section 24. Section **25-5-4** is amended to read:

25-5-4. Certain agreements void unless written and signed.

(1) The following agreements are void unless the agreement, or some note or memorandum of the agreement, is in writing, signed by the party to be charged with the agreement:

[~~(1)~~] (a) every agreement that by its terms is not to be performed within one year from the making of the agreement;

~~[(2)]~~ (b) every promise to answer for the debt, default, or miscarriage of another;

~~[(3)]~~ (c) every agreement, promise, or undertaking made upon consideration of marriage, except mutual promises to marry;

~~[(4)]~~ (d) every special promise made by an executor or administrator to answer in damages for the liabilities, or to pay the debts, of the testator or intestate out of his own estate;

~~[(5)]~~ (e) every agreement authorizing or employing an agent or broker to purchase or sell real estate for compensation; and

~~[(6)]~~ (f) every credit agreement.

(2) (a) As used in ~~[Subsection (6)]~~ Subsections (1)(f) and this Subsection (2):

(i) (A) "Credit agreement" means an agreement by a financial institution to:

(I) lend, delay, or otherwise modify an obligation to repay money, goods, or things in action~~[-to]~~;

(II) otherwise extend credit~~[-];~~ or ~~[to]~~

(III) make any other financial accommodation.

(B) "Credit agreement" does not include the usual and customary agreements related to deposit accounts or overdrafts or other terms associated with deposit accounts or overdrafts.

(ii) "Creditor" means a financial institution which extends credit or extends a financial accommodation under a credit agreement with a debtor.

(iii) "Debtor" means a person who seeks or obtains credit, or seeks or receives a financial accommodation, under a credit agreement with a financial institution.

(iv) "Financial institution" means:

(A) a state or federally chartered:

(I) bank~~[-];~~

(II) savings and loan association~~[-];~~

(III) savings bank~~[-];~~

(IV) industrial ~~[loan corporation,]~~ bank; or

(V) credit union~~[-];~~ or

(B) any other institution under the jurisdiction of the commissioner of Financial

Institutions as provided in Title 7, Financial Institutions Act.

(b) (i) Except as provided in Subsection [~~(6)~~] (2)(e), a debtor or a creditor may not maintain an action on a credit agreement unless the agreement:

(A) is in writing[;];

(B) expresses consideration[;];

(C) sets forth the relevant terms and conditions[;]; and

(D) is signed by the party against whom enforcement of the agreement would be sought.

(ii) For purposes of this act, a signed application constitutes a signed agreement, if the creditor does not customarily obtain an additional signed agreement from the debtor when granting the application.

(c) The following actions do not give rise to a claim that a credit agreement is created, unless the agreement satisfies the requirements of Subsection [~~(6)~~] (2)(b):

(i) the rendering of financial advice by a creditor to a debtor;

(ii) the consultation by a creditor with a debtor; or

(iii) the creation for any purpose between a creditor and a debtor of fiduciary or other business relationships.

(d) Each credit agreement shall contain a clearly stated typewritten or printed provision giving notice to the debtor that the written agreement is a final expression of the agreement between the creditor and debtor and the written agreement may not be contradicted by evidence of any alleged oral agreement. The provision does not have to be on the promissory note or other evidence of indebtedness that is tied to the credit agreement.

(e) A credit agreement is binding and enforceable without any signature by the party to be charged if:

(i) the debtor is provided with a written copy of the terms of the agreement;

(ii) the agreement provides that any use of the credit offered shall constitute acceptance of those terms; and

(iii) after the debtor receives the agreement, the debtor, or a person authorized by the debtor, requests funds pursuant to the credit agreement or otherwise uses the credit offered.

Section 25. Section **31A-21-109** is amended to read:

31A-21-109. Debt cancellation agreements and debt suspension agreements.

(1) As used in this section:

(a) "Debt cancellation agreement" means a contract between a lender and a borrower where the lender, for a separately stated consideration, agrees to waive all or part of the debt in the event of a fortuitous event such as death, disability, or the destruction of the lender's collateral.

(b) "Debt suspension agreement" means a contract between a lender and a borrower where the lender, for a separately stated consideration, agrees to suspend scheduled installment payments for an agreed period of time in the event of a:

(i) fortuitous event such as involuntary unemployment or accident; or

(ii) fortuitous condition such as sickness.

(c) "Institution" means:

(i) a bank as defined in Section 7-1-103;

(ii) a credit union as defined in Section 7-1-103;

(iii) an industrial [~~loan corporation~~] bank as defined in Section 7-1-103; or

(iv) a savings and loan association as defined in Section 7-1-103.

(d) "Regulate the issuance" includes regulation of the following with respect to a debt cancellation agreement or a debt suspension agreement:

(i) terms;

(ii) conditions;

(iii) rates;

(iv) forms; and

(v) claims.

(e) "Subsidiary" is as defined in Section 7-1-103.

(2) Except as provided in Subsection (6), the commissioner has sole jurisdiction over the regulation of a debt cancellation agreement or debt suspension agreement.

(3) Subject to this section, the commissioner may by rule, made in accordance with Title

63, Chapter 46a, Utah Administrative Rulemaking Act:

- (a) authorize an insurer to issue:
 - (i) a debt cancellation agreement; or
 - (ii) a debt suspension agreement; and
- (b) regulate the issuance of:
 - (i) a debt cancellation agreement; or
 - (ii) a debt suspension agreement.

(4) Except as provided in Subsection (6), a debt cancellation agreement or a debt suspension agreement may be issued only by an insurer authorized to issue a debt cancellation agreement or debt suspension agreement under this section.

(5) (a) The rules promulgated by the commissioner under this section shall regulate the issuance of a debt cancellation agreement or debt suspension agreement according to the functional insurance equivalent of each type of debt cancellation agreement or debt suspension agreement.

(b) Except as provided in Subsection (5)(c), in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commissioner may by rule determine the functional insurance equivalent of each type of debt cancellation agreement or debt suspension agreement.

(c) Notwithstanding Subsection (5)(b), the functional insurance equivalent of a debt cancellation agreement that provides for the cancellation of indebtedness at death is credit life insurance.

(6) Notwithstanding the other provisions of this section, the issuance of a debt cancellation agreement or a debt suspension agreement by an institution or a subsidiary of an institution is:

- (a) not subject to this section; and
- (b) subject to the jurisdiction of the primary regulator of:
 - (i) the institution; or
 - (ii) the subsidiary of an institution.

Section 26. Section **67-4a-102** is amended to read:

67-4a-102. Definitions.

As used in this chapter:

(1) "Administrator" means the deputy state treasurer assigned by the state treasurer to administer the law governing unclaimed property in Utah.

(2) "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.

(3) (a) "Bank draft" means a check, draft, or similar instrument on which a banking or financial organization is directly liable.

(b) "Bank draft" includes:

(i) cashier's checks; and

(ii) certified checks.

(c) "Bank draft" does not include:

(i) traveler's checks; or

(ii) money orders.

(4) "Banking organization" means:

(a) a bank[;];

(b) an industrial [~~loan corporation;~~] bank;

(c) a trust company[;];

(d) a savings bank[;]; or

(e) any organization defined by other law as a bank or banking organization.

(5) "Business association" means a nonpublic corporation, joint stock company, investment company, business trust, partnership, or association for business purposes of two or more individuals, whether or not for profit, including:

(a) a banking organization[;];

(b) a financial organization[;];

(c) an insurance company[;]; or

(d) a utility.

(6) "Cashier's check" means a check drawn by a banking organization on itself, signed by

an officer of the banking organization, authorizing payment of the amount shown on its face to the payee.

(7) "Class action" means a legal action:

- (a) certified by the court as a class action; or
- (b) treated by the court as a class action without being formally certified as a class action.

(8) (a) "Deposit in a financial institution" means a demand, savings, or matured time deposit with a banking or financial organization.

(b) "Deposit in a financial institution" includes:

- (i) any interest or dividends on a deposit; and
- (ii) a deposit that is automatically renewable.

(9) "Domicile" means the state of incorporation of a corporation and the state of the principal place of business of an unincorporated person.

(10) "Financial organization" means:

- (a) a savings and loan association; or
- (b) a credit union.

(11) "Government entity" means:

- (a) the state[;];
- (b) any administrative unit of the state[;];
- (c) any political subdivision of the state[;];
- (d) any administrative unit of a political subdivision of the state[;]; or
- (e) any officer or employee of [~~those entities~~] an entity described in Subsections (11)(a)

through (d).

(12) "Holder" means a person, wherever organized or domiciled, who is:

- (a) in possession of property belonging to another;
- (b) a trustee;
- (c) indebted to another on an obligation; or
- (d) charged with the duty of paying or delivering intangible property under Section

67-4a-302.

(13) "Insurance company" means an association, corporation, fraternal or mutual benefit organization, whether or not for profit, that is engaged in providing insurance coverage, including:

- (a) accident[;] insurance;
- (b) burial[;] insurance;
- (c) casualty[;] insurance;
- (d) credit life[;] insurance;
- (e) contract performance[;] insurance;
- (f) dental[;] insurance;
- (g) fidelity[;] insurance;
- (h) fire[;] insurance;
- (i) health[;] insurance;
- (j) hospitalization[;] insurance;
- (k) illness[;] insurance;
- (l) life insurance, including endowments and annuities[;];
- (m) malpractice[;] insurance;
- (n) marine[;] insurance;
- (o) mortgage[;] insurance;
- (p) surety[;] insurance; and
- (q) wage protection insurance.

(14) (a) "Intangible property" includes:

- (i) monies, checks, drafts, deposits in a financial institution, interest, dividends, and income;
- (ii) credit balances, customer overpayments, gift certificates over \$25, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances;
- (iii) stocks, mutual funds, and other intangible ownership interests in business associations;
- (iv) monies deposited to redeem stocks, bonds, coupons, and other securities or to make

distributions;

(v) bonds, notes, and any other debt obligations;

(vi) amounts due and payable under the terms of insurance policies;

(vii) amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance or similar benefits; and

(viii) amounts distributable from a mineral interest in land.

(b) "Intangible property" does not include patronage capital of electric, telephone, and agricultural cooperatives.

(15) "Last-known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail.

(16) "Mineral" means oil, gas, uranium, sulphur, lignite, coal, and any other substance that is ordinarily and naturally considered a mineral, regardless of the depth at which the oil, gas, uranium, sulphur, lignite, coal, or other substance is found.

(17) "Mineral proceeds" includes:

(a) all obligations to pay resulting from the production and sale of minerals, including:

(i) net revenue interest[;];

(ii) royalties[;];

(iii) overriding royalties[;];

(iv) production payments[;]; and

(v) joint operating agreements; and

(b) all obligations for the acquisition and retention of a mineral lease, including:

(i) bonuses[;];

(ii) delay rentals[;];

(iii) shut-in royalties[;]; and

(iv) minimum royalties.

(18) (a) "Money order" means a negotiable draft issued by a business association for which the business association is not directly liable.

(b) "Money order" does not mean a cashier's check.

(19) "Net intangible property" means intangible property that is held, issued, or owing in the ordinary course of a holder's business plus any income or increment derived from it and less any lawful charges.

(20) "Owner" means:

(a) a depositor in the case of a deposit;

(b) a beneficiary in the case of a trust other than a deposit in trust;

(c) a creditor, claimant, or payee in the case of other intangible property; or

(d) a person or that person's legal representative having a legal or equitable interest in property subject to this chapter.

(21) (a) "Ownership purchase funds" means any funds paid toward the purchase of a share, a mutual investment certificate, or any other interest in a banking or financial organization.

(b) "Ownership purchase funds" includes any interest or dividends paid on those funds.

(22) "Person" means:

(a) an individual[;];

(b) a business association[;];

(c) a government entity[;];

(d) a public corporation[;];

(e) a public authority[;];

(f) an estate[;];

(g) a trust[;];

(h) two or more persons having a joint or common interest[;]; or

(i) any other legal or commercial entity.

(23) "State" means any state, district, commonwealth, territory, insular possession, or any other area subject to the legislative authority of the United States.

(24) "Utility" means a person who owns or operates for public use any plant, equipment, property, franchise, or license for:

(a) the transmission of communications, including cable television; or

(b) the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

Section 27. Section **75-6-101** is amended to read:

75-6-101. Definitions.

As used in this part:

(1) "Account" means a contract of deposit of funds between a depositor and a financial institution and includes:

- (a) a checking account[;];
- (b) a savings account[;];
- (c) a certificate of deposit[;];
- (d) a share account[;]; and
- (e) other like arrangement.

(2) "Beneficiary" means a person named in a trust account as one for whom a party to the account is named as trustee.

(3) "Financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including, without limitation[;]:

- (a) banks [~~and~~];
- (b) trust companies[;];
- (c) industrial [~~loan corporations with thrift certificate authorization,]~~ banks;
- (d) savings banks[;];
- (e) building and loan associations[;];
- (f) savings and loan companies or associations[;]; and
- (g) credit unions.

(4) "Joint account" means an account payable on request to one or more of two or more parties whether or not mention is made of any right of survivorship.

(5) (a) "Multiple-party account" means any of the following types of account:

- ~~(a)~~ (i) a joint account;
- ~~(b)~~ (ii) a P.O.D. account; or

~~[(e)]~~ (iii) a trust account. ~~[It]~~

(b) "Multiple-party account" does not include:

(i) accounts established for deposit of funds of a partnership, joint venture, or other association for business purposes~~[-];~~ or

(ii) accounts controlled by one or more persons as the duly authorized agent or trustee for a corporation, unincorporated association, charitable or civic organization, or a regular fiduciary or trust account where the relationship is established other than by deposit agreement.

(6) (a) "Net contribution" of a party to a joint account as of any given time is the sum of all deposits to it made by or for ~~[him]~~ the party, less all withdrawals made by or for ~~[him]~~ the party which have not been paid to or applied to the use of any other party, plus a pro rata share of any interest or dividends included in the current balance. ~~[The term]~~

(b) "Net contribution" includes, in addition, any proceeds of deposit life insurance added to the account by reason of the death of the party whose net contribution is in question.

(7) (a) "Party" means a person, including a minor, who, by the terms of the account, has a present right, subject to request, to payment from a multiple-party account.

(b) A P.O.D. payee or beneficiary of a trust account is a party only after the account becomes payable to him by reason of his surviving the original payee or trustee and includes a guardian, conservator, personal representative, or assignee, including an attaching creditor, of a party. ~~[It also]~~

(c) "Party" includes a person identified as a trustee of an account for another whether or not a beneficiary is named~~[-but it]~~.

(d) "Party" does not include any named beneficiary unless ~~[he]~~ the named beneficiary has a present right of withdrawal.

(8) "Payment" of sums on deposit includes withdrawal, payment on check or other directive of a party, and any pledge of sums on deposit by a party and any setoff, reduction, or other disposition of all or part of an account pursuant to a pledge.

(9) "Proof of death" includes a death certificate or record or report which is prima facie proof of death under Section 75-1-107.

(10) "P.O.D. account" means an account payable on request to one person during lifetime and on ~~his~~ that person's death to:

(a) one or more P.O.D. payees~~;~~ or ~~to~~

(b) one or more persons during their lifetimes and on the death of all of them to one or more P.O.D. payees.

(11) "P.O.D. payee" means a person designated on a P.O.D. account as one to whom the account is payable on request after the death of one or more persons.

(12) "Request" means a proper request for withdrawal, or a check or order for payment, which complies with all conditions of the account, including special requirements concerning necessary signatures and regulations of the financial institution; but if the financial institution conditions withdrawal or payment on advance notice, for purposes of this part the request for withdrawal or payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for withdrawal.

(13) "Sums on deposit" means the balance payable on a multiple-party account, including interest, dividends, and in addition any deposit life insurance proceeds added to the account by reason of the death of a party.

(14) (a) "Trust account" means an account in the name of one or more parties as trustee for one or more beneficiaries where the relationship is established by the form of the account and the deposit agreement with the financial institution and there is no subject of the trust other than the sums on deposit in the account; and it is not essential that payment to the beneficiary be mentioned in the deposit agreement.

(b) A trust account does not include a regular trust account under a testamentary trust or a trust agreement which has significance apart from the account, or a fiduciary account arising from a fiduciary relation such as attorney-client.

(15) "Withdrawal" includes payment to a third person pursuant to check or other directive of a party.

Section 28. **Uncodified Section 27, Chapter 327, Laws of Utah 2003** is amended to read:

Section 27. Financial Institutions Task Force.

(1) There is created the Financial Institutions Task Force consisting of the following 12 members:

(a) five members of the Senate appointed by the president of the Senate, no more than four of whom may be from the same political party; and

(b) seven members of the House of Representatives appointed by the speaker of the House of Representatives, no more than five of whom may be from the same political party.

(2) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a) as a cochair of the task force.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(b) as a cochair of the task force.

(3) In conducting its business, the task force shall comply with the rules of legislative interim committees.

(4) Salaries and expenses of the members of the task force shall be paid in accordance with Section 36-2-2 and Legislative Joint Rule 15.03.

(5) The Office of Legislative Research and General Counsel shall provide staff support to the task force.

(6) The task force shall study:

(a) the structural differences between credit unions and other financial institutions;

(b) whether to clarify the language defining the appropriate purposes and operations of credit unions chartered in this state including what are the appropriate eligibility standards for members of a credit union that should be imposed by statute;

(c) what should be the appropriate field of membership requirements for a credit union;

(d) the policies that should govern all questions applicable to taxing or not taxing nonexempt credit unions;

(e) the policies underlying whether or not to tax or assess other fees on banks and nonexempt credit unions;

(f) (i) whether or not any credit union should be allowed to pay a competitive equity

assessment;

(ii) if a credit union is allowed to pay a competitive equity assessment, which credit unions should be allowed to pay a competitive equity assessment; and

(iii) how any competitive equity assessment to be paid by a credit union should be calculated including whether required reserves should be subtracted from any of a credit union's annual cash retained earnings of a credit union that may be subject to a competitive equity assessment;

(g) if a competitive equity assessment is allowed to be paid by a credit union or if state corporate franchise and income taxes are imposed on nonexempt credit unions, the benefits or restrictions that should be conditioned on the payment of the competitive equity assessment or state corporate franchise and income taxes including:

(i) whether or not, to the extent that a bank could extend the credit or to the extent that the extension of credit is not inconsistent with the requirements of National Credit Union Administration, a credit union that pays a competitive equity assessment should be exempted from certain restrictions on extending member-business loans such as the restrictions under:

(A) Subsection 7-9-5(12)(b);

(B) Subsection 7-9-20(7)(b)(ii), except that certain membership requirements may always need to be required for member-business loans;

(C) Subsection 7-9-20(7)(c); and

(D) Subsection 7-9-20(8)(b)(ii);

(ii) whether or not without payment of a competitive equity assessment a nonexempt credit union should be able to establish a branch that is to be located outside of the county in which the nonexempt credit union has the greatest number of branches;

(iii) whether or not, except in supervisory actions, a nonexempt credit union could merge with another credit union without payment of the competitive equity assessment; and

(iv) whether or not limitations related to the grandfathering under Section 7-9-53 should be modified or removed;

(h) whether the judicial review process of decisions of the Commissioner of Financial

Institutions should be modified;

(i) (i) the powers and duties of the Commissioner of Financial Institutions to regulate the activities of credit unions and banks; and

(ii) whether additional powers or duties should be given to the Commissioner of Financial Institutions;

(j) the effect of a credit union chartered in this state converting to a federal credit union charter including any:

(i) loss of sales and uses taxes;

(ii) loss of fees paid to the Department of Financial Institutions; and

(iii) loss of taxes and fees paid to political subdivisions of the state;

(k) the methods by which financial institutions in this state may obtain capital;

(l) the appropriate lending practices of credit unions including:

(i) extension of member-business loans;

(ii) extension of credit that does not constitute a member-business loan; and

(iii) participation in co-lending arrangements including loan participation arrangements;

[and]

(m) whether one or more of the following should be allowed to be organized as or convert to a limited liability company:

(i) a bank chartered under Chapter 3, Banks;

(ii) a savings and loan association chartered under Chapter 7, Savings and Loan

Associations Act;

(iii) a depository institution holding company; or

(iv) a subsidiary of an institution described in Subsections (6)(m)(i) through (iii); and

~~(m)~~ (n) any other issues related to financial institutions and credit unions that the task force determines to be appropriate.

(7) The task force shall:

(a) make an interim report to the Business and Labor Interim Committee by no later than November 30, 2003; and

(b) make a final report to the Business and Labor Interim Committee, including any proposed legislation, by no later than November 30, 2004.

Section 29. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 30. Revisor instructions.

It is the intent of the Legislature that in preparing the Utah Code database for publication the Office of Legislative Research and General Counsel replace the phrase "the effective date of this bill" in Section 7-8-21 with the bill's effective date.