

S.B. 162

DEPARTMENT OF FINANCIAL INSTITUTIONS ENFORCEMENT OF APPLICABLE LAW

SENATE FLOOR AMENDMENTS

AMENDMENT 1

FEBRUARY 6, 2006

8:25 AM

Senator **Hillyard** proposes the following amendments:

1. *Page 4, Lines 99 through 100:*

99 (iii) Bank Secrecy Act, 12 U.S.C. Sec. 1829b, 12 U.S.C. Sec. 1951 through 1959, and
100 31 U.S.C. Sec. 5311 through 5332 **, and its implementing regulations** ; and

2. *Page 6, Lines 174 through 175:*

174 (iii) Bank Secrecy Act, 12 U.S.C. Sec. 1829b, 12 U.S.C. Sec. 1951 through 1959, and
175 31 U.S.C. Sec. 5311 through 5332 **, and its implementing regulations** ; and

3. *Page 8, Line 218 through Page 9, Line 259:*

218 (1) [~~the~~] (a) The department may take an action described in Subsection (1)(b) if the
219 department determines that any {+} party {+} {~~person~~} engaging in activities subject to this title
is
220 violating or has violated or the department has reasonable cause to believe is about to violate;
221 (i) any applicable provision of this title[~~;~~];
222 (ii) any rule[~~;~~regulation,] or order[~~;~~or] under this title;
223 (iii) any condition imposed in writing in connection with the granting of any
224 application or other request by the {+} party {;} {+} {~~person~~} ; or
225 (iv) any federal statute[~~;~~rule,] or regulation pertaining to consumer credit[~~;~~the] in
226 effect at the time of the determination described in Subsection (1)(a).
227 (b) If the department makes a determination described in Subsection (1)(a), the
228 department may:
229 (i) order the party to cease and desist from committing any further violations[~~;~~]; and
230 (ii) in the most serious instances [~~may~~] **;** prohibit a party from making further extensions
231 of credit to consumers.
232 (c) The department shall by rule, made in accordance with Title 63, Chapter 46a, Utah
233 Administrative Rulemaking Act, and consistent with this chapter, designate which one or more
234 federal statutes or regulations are federal statutes or regulations pertaining to consumer credit
235 for purposes of this Subsection (1).
236 (2) The department shall afford an opportunity for hearing upon request of any [~~party~~
237 ~~alleged to have violated this title~~] {~~person~~} **;** party described in Subsection (1)(a) if the request is filed

238 with the department within 30 days after the {+} party {+} {person} requesting the hearing first
receives
239 notice of the allegations.
240 (3) (a) If the department determines that a practice [which] that it has alleged is
241 unlawful should be enjoined during the pendency of any proceedings incident to that allegation,
242 [it] the department may issue a temporary order:
243 (i) at the commencement of the proceedings; or
244 (ii) at any time [~~thereafter which shall be~~] after commencement of the proceeding.
245 (b) The temporary order described in this Subsection (3) is fully binding on the {+} party {+}
246 {person} to whom the temporary order is directed until:
247 (i) the proceedings are concluded; or
248 (ii) the temporary order is modified or dissolved by the department.
249 (c) Any {+} party {+} {person} to whom a temporary order is directed may request a
hearing
250 concerning the order, which shall be held:
251 (i) at the earliest mutually convenient time, but in no event more than ten days, after
252 the {+} party's {+} {person's} request is received by the department; or
253 (ii) at any other time the parties may mutually agree upon.
254 (d) Every temporary order shall include findings and conclusions in support of [it] the
255 order. [~~No~~]
256 (e) A temporary order may not be issued unless the department finds from specific
257 facts supported by sworn statement or the records of a {+} party {+} {person} subject to the
order that
258 consumers are otherwise likely to suffer immediate and irreparable injury, loss, or damage
259 before proceedings, incident to a final order, can be completed.