

REPORTING BY DEFERRED DEPOSIT

LENDERS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Laura Black

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Check Cashing and Deferred Deposit Lending Registration Act to address annual reporting by deferred deposit lenders.

Highlighted Provisions:

This bill:

- ▶ adds additional items to be included in an annual operational statement of a deferred deposit lender; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

7-23-201, as last amended by Laws of Utah 2008, Chapter 382 and renumbered and amended by Laws of Utah 2008, Chapter 96

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

Section 1. Section **7-23-201** is amended to read:



28 **7-23-201. Registration -- Rulemaking.**

29 (1) (a) It is unlawful for a person to engage in the business of cashing checks or the
30 business of deferred deposit lending in Utah or with a Utah resident unless the person:

- 31 (i) registers with the department in accordance with this chapter; and
- 32 (ii) maintains a valid registration.

33 (b) It is unlawful for a person to operate a mobile facility in this state to engage in the
34 business of:

- 35 (i) cashing checks; or
- 36 (ii) deferred deposit lending.

37 (2) (a) A registration and a renewal of a registration expires on April 30 of each year
38 unless on or before that date the person renews the registration.

39 (b) To register under this section, a person shall:

- 40 (i) pay an original registration fee established under Subsection 7-1-401(8); and
- 41 (ii) submit a registration statement containing the information described in Subsection

42 (2)(d).

43 (c) To renew a registration under this section, a person shall:

- 44 (i) pay the annual fee established under Subsection 7-1-401(5);
- 45 (ii) submit a renewal statement containing the information described in Subsection

46 (2)(d); and

47 (iii) if the person engages in the business of deferred deposit lending, submit an
48 operations statement containing the information described in Subsection (2)(e).

49 (d) A registration or renewal statement shall state:

- 50 (i) the name of the person;
- 51 (ii) the name in which the business will be transacted if different from that required in

52 Subsection (2)(d)(i);

53 (iii) the address of the person's principal business office, which may be outside this
54 state;

55 (iv) the addresses of all offices in this state at which the person conducts the business
56 of:

- 57 (A) cashing checks; or
- 58 (B) deferred deposit lending;

59 (v) if the person conducts the business of cashing checks or the business of deferred
60 deposit lending in this state but does not maintain an office in this state, a brief description of
61 the manner in which the business is conducted;

62 (vi) the name and address in this state of a designated agent upon whom service of
63 process may be made;

64 (vii) disclosure of any injunction, judgment, administrative order, or conviction of any
65 crime involving moral turpitude with respect to that person or any officer, director, manager,
66 operator, or principal of that person; and

67 (viii) any other information required by the rules of the department.

68 (e) An operations statement required for a deferred deposit lender to renew a
69 registration shall state for the immediately preceding calendar year:

70 (i) the total number and the total dollar amount of deferred deposit loans extended by
71 the deferred deposit lender;

72 ~~(i)~~ (ii) the average deferred deposit loan amount that the deferred deposit lender
73 extended;

74 ~~(ii)~~ (iii) the average number of days a deferred deposit loan is extended by the
75 deferred deposit lender before the deferred deposit loan is paid in full;

76 ~~(iii)~~ (iv) the minimum and maximum amount of interest or fees charged by the
77 deferred deposit lender for a deferred deposit loan:

78 (A) of \$100; and

79 (B) extended for one week; and

80 ~~(iv)~~ (v) the total number of deferred deposit loans rescinded by the deferred deposit
81 lender at the request of the customer pursuant to Subsection 7-23-401(3)(b).

82 (3) Information provided by a deferred deposit lender under Subsection (2)(e) is:

83 (a) confidential in accordance with Section 7-1-802; and

84 (b) not subject to Title 63G, Chapter 2, Government Records Access and Management
85 Act.

86 (4) (a) The commissioner may impose an administrative fine determined under
87 Subsection (4)(b) on a person if:

88 (i) the person is required to be registered under this chapter;

89 (ii) the person fails to register or renew a registration in accordance with this chapter;

90 (iii) the department notifies the person that the person is in violation of this chapter for
91 failure to be registered; and

92 (iv) the person fails to register within 30 days after the day on which the person
93 receives the notice described in Subsection (4)(a)(iii).

94 (b) Subject to Subsection (4)(c), the administrative fine imposed under this section is:

95 (i) \$500 if the person:

96 (A) has no office in this state at which the person conducts the business of:

97 (I) cashing checks; or

98 (II) deferred deposit lending; or

99 (B) has one office in this state at which the person conducts the business of:

100 (I) cashing checks; or

101 (II) deferred deposit lending; or

102 (ii) if the person has two or more offices in this state at which the person conducts the
103 business of cashing checks or the business of deferred deposit lending, \$500 for each office at
104 which the person conducts the business of:

105 (A) cashing checks; or

106 (B) deferred deposit lending.

107 (c) The commissioner may reduce or waive a fine imposed under this Subsection (4) if
108 the person shows good cause.

109 (5) If the information in a registration, renewal, or operations statement required under
110 Subsection (2) becomes inaccurate after filing, a person is not required to notify the department
111 until:

112 (a) that person is required to renew the registration; or

113 (b) the department specifically requests earlier notification.

114 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
115 department may make rules consistent with this section providing for:

116 (a) the form, content, and filing of a registration and renewal statement described in
117 Subsection (2)(d); and

118 (b) the form and filing of an operations statement described in Subsection (2)(e).

Legislative Review Note
as of 1-20-10 1:32 PM

Office of Legislative Research and General Counsel

H.B. 191 - Reporting by Deferred Deposit Lenders

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
