

AMENDMENTS TO DEFERRED DEPOSIT LENDING

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Check Cashing and Deferred Deposit Lending Registration Act to address reporting requirements and the requirement to register.

Highlighted Provisions:

This bill:

- ▶ modifies what a deferred deposit lender is required to report as part of its operations statement;
- ▶ makes void a deferred deposit loan issued by a person required to be registered but who is not registered under the chapter;
- ▶ requires the department to report certain information regarding complaints; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

7-23-201, as last amended by Laws of Utah 2010, Chapter 102

7-23-503, as enacted by Laws of Utah 2008, Chapter 96



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

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

30 **7-23-201. Registration -- Rulemaking.**

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

33 (i) registers with the department in accordance with this chapter; and

34 (ii) maintains a valid registration.

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

37 (i) cashing checks; or

38 (ii) deferred deposit lending.

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

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

42 (i) pay an original registration fee established under Subsection 7-1-401(8); and

43 (ii) submit a registration statement containing the information described in Subsection

44 (2)(d).

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

46 (i) pay the annual fee established under Subsection 7-1-401(5);

47 (ii) submit a renewal statement containing the information described in Subsection

48 (2)(d); and

49 (iii) if the person engages in the business of deferred deposit lending, submit an

50 operations statement containing the information described in Subsection (2)(e).

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

52 (i) the name of the person;

53 (ii) the name in which the business will be transacted if different from that required in

54 Subsection (2)(d)(i);

55 (iii) the address of the person's principal business office, which may be outside this

56 state;

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

58 of:

- 59 (A) cashing checks; or
- 60 (B) deferred deposit lending;
- 61 (v) if the person conducts the business of cashing checks or the business of deferred
62 deposit lending in this state but does not maintain an office in this state, a brief description of
63 the manner in which the business is conducted;
- 64 (vi) the name and address in this state of a designated agent upon whom service of
65 process may be made;
- 66 (vii) disclosure of any injunction, judgment, administrative order, or conviction of any
67 crime involving moral turpitude with respect to that person or any officer, director, manager,
68 operator, or principal of that person; and
- 69 (viii) any other information required by the rules of the department.
- 70 (e) An operations statement required for a deferred deposit lender to renew a
71 registration shall state for the immediately preceding calendar year:
- 72 (i) the average principal amount of the deferred deposit [~~loan amount that the deferred~~
73 ~~deposit lender extended~~] loans extended by the deferred deposit lender;
- 74 (ii) for deferred deposit loans paid in full, the average number of days a deferred
75 deposit loan is [~~extended by the deferred deposit lender before the deferred deposit loan is paid~~
76 ~~in full~~] outstanding for the duration of time that interest is charged;
- 77 [~~(iii) of the deferred deposit loans that are paid in full 10 weeks or sooner after the day~~
78 ~~on which the deferred deposit loan is executed, the average number of days a deferred deposit~~
79 ~~loan is extended by the deferred deposit lender before the deferred deposit loan is paid in full;~~]
- 80 [(iv)] (iii) the minimum and maximum dollar amount of interest [~~or~~] and fees charged
81 by the deferred deposit lender for a deferred deposit loan[?] of \$100 with a loan term of seven
82 days;
- 83 [(A) of \$100; and]
- 84 [(B) extended for one week;]
- 85 [(v)] (iv) the total number of deferred deposit loans rescinded by the deferred deposit
86 lender at the request of the customer pursuant to Subsection 7-23-401(3)(b); and
- 87 [(vi) the percentage of deferred deposit loans extended by the deferred deposit lender
88 that are not paid in full by 10 weeks after the day on which the deferred deposit loan is
89 executed; and]

90 ~~[(vii) of the persons to whom the deferred deposit lender extended a deferred deposit~~
91 ~~loan, the percentage that entered into an extended payment plan under Section 7-23-403.]~~

92 (v) the total number of extended payment plans entered into under Section 7-23-403 by
93 the deferred deposit lender.

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

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

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

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

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

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

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

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

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

107 (i) \$500 if the person:

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

109 (I) cashing checks; or

110 (II) deferred deposit lending; or

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

112 (I) cashing checks; or

113 (II) deferred deposit lending; or

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

117 (A) cashing checks; or

118 (B) deferred deposit lending.

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

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

- 124 (a) that person is required to renew the registration; or
- 125 (b) the department specifically requests earlier notification.

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

- 128 (a) the form, content, and filing of a registration and renewal statement described in
129 Subsection (2)(d); and
- 130 (b) the form and filing of an operations statement described in Subsection (2)(e).

131 (7) A deferred deposit loan that is made by a person who is required to be registered
132 under this chapter but who is not registered is void, and the person may not collect, receive, or
133 retain any principal or other interest or fees in connection with the deferred deposit loan.

134 Section 2. Section **7-23-503** is amended to read:

135 **7-23-503. Reporting by commissioner.**

136 (1) Subject to Subsection (2), as part of the commissioner's annual report to the
137 governor and Legislature under Section 7-1-211, the commissioner shall report to the governor
138 and Legislature on the operations on an aggregate basis of deferred deposit lenders operating in
139 the state.

140 (2) In preparing the report required by Subsection (1), the commissioner:

141 (a) shall include in the report for the immediately preceding calendar year aggregate
142 information from the one or more operations statements filed under Subsection 7-23-201(2)(e)
143 by deferred deposit lenders for that calendar year; ~~and~~

144 (b) shall include in the report:

145 (i) the total number of written complaints concerning issues material to deferred
146 deposit loan transactions received by the department in a calendar year from persons who have
147 entered into a deferred deposit loan with a deferred deposit lender;

148 (ii) for deferred deposit lenders who are registered with the department:

149 (A) the number of the complaints described in Subsection (2)(b)(i) that the department
150 considers resolved; and

151 (B) the number of the complaints described in Subsection (2)(b)(i) that the department

152 considers unresolved; and
153 (iii) for deferred deposit lenders who are not registered with the department:
154 (A) the number of the complaints described in Subsection (2)(b)(i) that the department
155 considers resolved; and
156 (B) the number of the complaints described in Subsection (2)(b)(i) that the department
157 considers unresolved; and
158 [~~b~~] (c) may not include in the report information from an operations statement filed
159 with the department that could identify a specific deferred deposit lender.

Legislative Review Note
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Office of Legislative Research and General Counsel